

**SUPPORTING STATEMENT
FOR AN INFORMATION COLLECTION REQUEST (ICR)**

1. IDENTIFICATION OF THE INFORMATION COLLECTION

1(a). Title of the Information Collection

Worker Protection Standard Training and Notification

OMB No.: 2070-0148; EPA No.: 1759.04

1(b). Short Characterization/Abstract

The Environmental Protection Agency (EPA, or the Agency) is responsible for the regulation of pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The Worker Protection Standard (WPS), codified at 40 Code of Federal Regulations (CFR) Part 170, established requirements to protect agricultural workers and pesticide handlers from hazards of pesticides used on farms, on forests, in nurseries and in greenhouses. 40 CFR Part 170 contains the standard and workplace practices, which are designed to reduce or eliminate exposure to pesticides and establish procedures for responding to exposure-related emergencies. The practices include prohibitions against applying pesticides in a way that would cause exposure to workers and others; a waiting period before workers can return to areas treated with pesticides (restricted entry interval); basic safety training (and voluntary training verification) and posting of information about pesticide hazards, as well as pesticide application information; arrangements for the supply of soap, water, and towels in case of pesticide exposure; and provisions for emergency assistance. The training verification program facilitates compliance with the training requirements by providing a voluntary method for employers to verify that the required safety information has been provided to workers and handlers.

This renewal ICR estimates the third party response burden from complying with the Worker Protection Standard requirements. Information is exchanged between agricultural employers and employees at farm, forest, nursery and greenhouse establishments to ensure worker safety. No information is collected by the Agency under this ICR. It is estimated that the response burden is approximately 2.3 million hours valued at \$109.4 million.

2. NEED FOR AND USE OF THE COLLECTION

2(a). Need/Authority for the Collection

In accordance with FIFRA Section 25 (attachment A), the Agency issued final regulations on August 21, 1992, revising the WPS at 40 CFR 170 (attachment B). The WPS at 40 CFR Part 170 is designed to reduce the risks of illness or injury resulting from workers' and handlers' occupational exposure to pesticides used in the production of agricultural plants on farms or in nurseries, greenhouses, and forests and also from the accidental exposure of workers and other

persons to such pesticides. It requires workplace practices designed to reduce or eliminate exposure to pesticides and establishes procedures for responding to exposure-related emergencies. The notification and training requirements are necessary to provide agricultural workers and pesticide handlers with the information they need to protect themselves from pesticide poisoning and other injuries.

2(b). Practical Utility/Uses of the Data

Basic pesticide safety information/training, instructions on safe operations and repair of equipment, notification regarding use of specific pesticides, and the applicability of exceptions/exemptions to WPS reentry restrictions provide agricultural workers, pesticide handlers, agricultural employers, and medical personnel with basic information so they are able to take precautionary or responsive measures, as appropriate. This training and notification are targeted to agricultural workers who perform tasks related to the cultivation and harvesting of plants in areas treated with pesticides, and pesticide handlers who mix, load, and apply pesticides for use in these areas.

Training verification certificates have been produced by the Agency for authorized trainers to issue to workers and handlers once they have completed the WPS training requirements. The EPA training verification program is a voluntary program and the issuance of the training verification cards is not a WPS requirement. However, agricultural employers are relieved of the responsibility of safety training if their agricultural workers and pesticide handlers possess valid EPA training verification cards. Participating States issue the cards to qualified training providers within the State. The program is intended to assist in substantiating WPS pesticide safety training, minimize the need for retraining (given the migrant nature of much of the workforce), offer an uncomplicated system for verifying training, provide a means for training quality control, and allow states flexibility in administering the program.

3. NON-DUPLICATION, CONSULTATIONS, AND OTHER COLLECTION CRITERIA

3(a). Non-duplication

Not applicable. This is the only notification activity of its kind and notifications required in this program are required only once per event. Consequently, the possibility for duplication does not exist. The training provision provides for an exemption for certified applicators of restricted-use pesticides under the Certification and Training Program found in 40 CFR Part 171. Therefore, no duplication of training is imposed. Additionally, the WPS training verification program was explicitly developed to eliminate duplication of training.

3(b). Public Notice

In proposing to renew this ICR, EPA published a Federal Register notice on September 30, 2004 (69 FR 189), soliciting comments on this information collection activity and the Agency's intent to renew the OMB approval of this ICR. The comment period closed November 29, 2004; no comments were received.

3(c). Consultations Required Prior to ICR Submission to OMB

During preparation of this ICR renewal, EPA staff contacted three stakeholder representatives by telephone to seek feedback on the burden estimates in the ICR. The following questions related to the burden estimates were asked:

1. Are the labor rates accurate?
2. The Agency assumes that there are no capital costs associated with this activity. Is that correct?
3. Are the estimated burden hours accurate, in your opinion? If not, what do you think would be more accurate, and can you provide an explanation of how you arrived at your estimates?
4. Are there other costs that should be accounted for that may have been missed?

Two of the three representatives (see Attachment C for detailed contact information) provided responses to our questions. Their responses are provided below.

Labor Rates: One representative felt that the labor rate was accurate; the second felt that the wage rate for farm labor was too high. EPA reduced the loaded wage rate for workers in this document from \$18 per hour to \$17 per hour. This change reflects USDA National Agricultural Statistical Survey's most recent wage estimates for this category of labor.

Capital Costs: Both respondents agreed that no capital costs are associated with these activities.

Estimated Burden: One respondent agreed that the burden hours were reasonable. The other respondent stated that the estimated time burden for handler training, 45 minutes, may not be adequate because handlers (in North Carolina) have more detailed information in their training and suggested 55 minutes might be more accurate. The Agency considered this comment, but believes that the national average for handler training is somewhat lower, as reflected in the estimates provided.

Other Costs: Although one respondent felt there were other costs associated with these activities, those costs are not relevant to the burden of information collection. The second respondent felt that the response burden estimated was comprehensive.

3(d). Effects of Less Frequent Collection

Not applicable. This is the only notification activity of its kind and training/notifications required in this program are required only once per event. Consequently, the possibility for less frequent training/notification does not exist without increased risk.

3(e). General Guidelines

Two of the general guidelines of the Paperwork Reduction Act (PRA) are not met by this ICR. First, the information (e.g., safety information, training materials, and signs for posting) that employers are required to provide to workers and handlers is generally information that is not maintained by the employer and must be developed or purchased. Second, small entities are required to follow the same requirements as larger establishments under the WPS, unless exempted as a solely family-operated establishment.

Availability and Maintenance of Notice Information

The information that EPA requires agricultural employers provide to workers and handlers (e.g., safety information, training materials, signs for posting, etc.) is not typically maintained by the employer. Employers will generally need to develop or purchase these materials. However, some of the information may customarily be maintained, but in a different format than is required by the rule. Specifically, the pesticide application information that is required to be centrally posted may be maintained by the employer in various other forms, such as bills, receipts for pesticides purchased, or service contracts for individual applications by commercial applicators. Location information may be maintained in the form of field maps. The WPS requires that certain information about each application be centrally posted; including the location of the application, information about the pesticide, date and time of application and restricted entry interval, but the format of such information posting is left to the individual employer. Materials containing this required information have been distributed widely.

Small Entity Flexibility

Small entities are required to follow the same requirements as larger establishments under the WPS, unless exempted as a solely family-operated establishment. The protections of the WPS depend upon workers receiving the various training and notifications contained in the rule. These cannot be reduced for small establishments without seriously compromising the protections offered to workers and handlers.

3(f). Confidentiality

Not applicable. The Agency is not collecting information in conjunction with this activity. Further, this activity complies with the provisions of the Privacy Act of 1974 and OMB circular A-108.

4. THE RESPONDENTS AND THE INFORMATION REQUESTED

4(a). Respondents/NAICS Codes

Respondents affected by the collection activities under this ICR are agricultural employers, including employers in farms as well as nursery, forestry, and greenhouse establishments. There are approximately 309,100 agricultural establishments in the U.S. and 3 million to 4 million farm workers. The North American Industrial Classification System (NAICS) codes assigned to the parties responding to this information are as follows:

NAICS Code	Examples of Potentially Affected Entities
111 <i>Crop production</i>	Agricultural employers - farms
115 Support activities for agriculture and forestry	Agricultural employers - greenhouses and forestry

4(b). Information Requested

(i). Data items, including recordkeeping requirements

(1). Central Information:

Safety Poster. The agricultural employer must display pesticide safety information in a central location on the agricultural establishment, providing pesticide safety concepts and emergency medical care information. EPA supported the development of posters which are readily available at no cost from EPA or at a very low cost from commercial supply (at \$2.50 each). Employers need only add the name of the nearest medical care facility and post the poster in a central location. Employers are not obligated to use the EPA-developed poster and may create their own so long as the ten basic points described in 40 CFR 170.135(b) are included.

Treatment-Specific Information. The agricultural employer must display at a central location the following: the location and description of a treated area; the product name, EPA registration number, and active ingredient(s) of the pesticide; the time and date of application; and the restricted-entry interval for each pesticide application, if workers will be on the establishment within a specified time period during or following application.

(2). Training:

Basic Pesticide Safety Information. The agricultural employer must assure that each agricultural worker who has not received the complete pesticide safety

training is provided basic pesticide information specified in 40 CFR 170.130(a)(3) in a manner the worker can understand.

Agricultural Worker Training. The agricultural employer must assure that each agricultural worker is trained in pesticide safety in a manner that the worker can understand within 5 days of employment on the establishment, or before workers enter treated areas to perform early-entry activities. The person who conducts the training must meet the criteria described in 40 CFR 170.130(c)(2) and the training must cover the eleven points described in 40 CFR 170.130(c)(3).

Pesticide Handler Training. The handler employer must assure that each pesticide handler is trained in pesticide safety, covering the 13 points described in 40 CFR 170.230(c) before they perform any handling task.

EPA supported the development of pesticide safety training materials for agricultural workers, pesticide handlers, and trainers for both groups of employees. Through the cooperation of the pesticide chemical industry, state agencies, and others, the materials were produced in large volume and distributed for no cost. Additional materials are commercially available for minimal cost (training handbooks available at \$1.00 or less, trainer notebooks available at \$3.50, and a reference guide is available at \$3.50 each). Additionally, the Agency has supported training efforts conducted by national farmworker organizations across the country, focusing on entry points and key paths for the migrant farmworker workforce.

(3). Training Verification:

The EPA training verification program is a voluntary program and is intended to relieve agricultural employers of the burden of repeat training of individuals in a mobile work force. Employers are relieved of the responsibility of safety training if their agricultural workers and pesticide handlers possess valid EPA training verification cards. States that agree to participate in EPA's voluntary training verification program submit an agreement form to EPA indicating the name of a State WPS contact and the number of training verification cards that they wish to receive from EPA. This is a one time filing. Participating States will issue EPA training verification cards to qualified training providers within the State. As a condition for being allowed to provide cards to workers and handlers, trainers are asked to keep class rosters of the names of those they have trained.

(4). Treatment Specific Worker/Handler Notice:

Oral Notification and/or posting warning signs. Whenever specified on the pesticide label, the employer must notify workers who come within 1/4 mile of a treated area within a specified time period of any pesticide application. Notification may be either by posting a warning sign or by providing information orally, unless

the pesticide label requires both posting and oral notification. Required specifications for the warning signs are contained in the 40 CFR 170.120(c). Signs are commercially available for just under \$2.00 each. The oral notification must be in a manner that the worker can understand, and include the location and description of the treated area, the time during which entry is restricted, and instructions not to enter the treated area until the restricted-entry interval has expired.

(5). Handler and Emergency Information:

Handler Notice to Employer. Before the application of any pesticide on or in an agricultural establishment, the handler employer shall provide or assure the agricultural employer for the establishment is aware of the specific location and description of the treated area; the time and date of application; the product name, EPA registration number, and active ingredient(s); the restricted-entry interval; and whether posting and oral notification are required.

Safe Operation and Repair. The handler employer must assure that before the handler uses any equipment for mixing, loading, transferring, or applying pesticides, the handler is instructed in the safe operation of the equipment.

Emergency Information. If the employer has reason to believe that a person who is or has been employed by an agricultural establishment or a commercial pesticide handling establishment to perform pesticide handling tasks has been poisoned or injured by exposure to pesticides as a result of that employment, the employer must provide that person or treating medical personnel information about the pesticide, the antidote and first aid information from the product label, the circumstances of handling the pesticide, and the circumstances of exposure to the pesticide.

(6). Use of Exceptions/Exemptions Notice:

Use of Exceptions/Exemptions Notice. Employers must notify workers, either in writing or orally, in a language the worker understands, if the establishment is operating under conditions of an EPA-approved exception/exemption to the early entry provisions of the WPS. The exceptions/exemptions are intended to provide flexibility, if needed, to growers to conduct certain otherwise prohibited activity during a time period when exposure to pesticide residues is of concern.

There are currently two nationwide exceptions and one exemption for which third party notification would be required. They include some circumstances for conducting irrigation activities, some circumstances for conducting activities which result in limited contact with pesticide treated surfaces, and some circumstances for conducting crop advising activities, all during a restricted entry interval following pesticide application.

(ii) Respondent Activities

In assuring that training is provided to their workers and handlers and providing WPS notifications, agricultural employers generally engage in the following activities:

Activity	Description
Learn rule requirements	Read WPS, 40 CFR Part 170, and read specific pesticide labels.
Acquire poster and warning signs	Create own pesticide safety poster and warning sign, obtain poster and signs free if available from EPA and States, or purchase for low cost from commercial supply.
Fill in medical information on safety poster and post specific application information	Fill in the name of the nearest medical care facility on the centrally-displayed pesticide safety poster; record the location and description of the treated area, the product name, and active ingredient(s) of the pesticide, the time and date the pesticide is to be applied, and the restricted-entry interval for the pesticide at a central location for each pesticide application.
Post notices or provide oral notification	Post the basic pesticide safety poster at a central location; post warning signs at usual points of entry or in corners of the treated area for each application or provide oral notification to workers
Arrange for training of workers and pesticide handlers	Become an authorized WPS trainer or arrange for state personnel or other qualified trainer to train workforce. Arrange for training all new employees within 5 days of their employment.
Issue and review training verification cards	Obtain verification cards and issue to workers or handlers after training is completed or arrange for an authorized WPS trainer to provide verification cards.
Provide treatment information to employers, handlers and medical personnel	For pesticide treatments performed for hire, notify the agricultural employer of the specifics of the treatment (time, product used, REI's, etc.) and ensure that handlers have label information available during application. If a medical emergency exists, provide medical personnel with specific information from the pesticide label and the circumstances of application.
Notify workers and handlers of terms of exceptions/exemptions allowing for tasks to be performed in treated areas	When using WPS exceptions or exemptions, the agricultural employer must explain the exception to the workers and handlers.

5. THE INFORMATION COLLECTED – AGENCY ACTIVITIES, COLLECTION METHODOLOGY, AND INFORMATION MANAGEMENT

5(a). Agency Activities

Not applicable. This ICR involves activities conducted by third parties. EPA does not conduct any activities under this ICR. Participating States are responsible for implementing

voluntary training verification programs.

5(b). Collection Methodology and Management

Not applicable. This ICR involves activities conducted by third parties. EPA does not conduct any activities under this ICR. Participating States are responsible for implementing voluntary training verification programs.

5(c). Small Entity Flexibility

The protections of the WPS depend upon workers receiving the various training and notifications contained in the rule. These cannot be reduced for small establishments without seriously compromising the protections offered to workers and handlers. As such, small entities are required to follow the same requirements as larger establishments under the WPS, unless exempted as a solely family-operated establishment under 40 CFR 170.204(a). Under this exemption, the owner of an agricultural establishment is not required to provide certain protections to himself or members of his immediate family who are performing handling tasks on their own agricultural establishment.

5(d). Collection Schedule

Not applicable. This ICR involves activities conducted by third parties. EPA does not conduct any activities under this ICR. Participating States are responsible for implementing voluntary training verification programs.

6. ESTIMATING THE BURDEN AND COST OF THE COLLECTION

The attached table lists the estimated burden hours and cost associated with training and information exchanges required by the Worker Protection Standard. The estimates are based on the agricultural establishment and employment figures used in the WPS regulatory impact analysis, as well as information obtained by the Agency during the implementation of the WPS and from contacts at the state level and within the US Department of Agriculture (USDA).

6(a). Estimating Respondent Burden

The estimated burden and cost to farmers for the time taken to train workers is based on the Agency's experience obtained during the implementation of the WPS, as well as from additional information provided by personnel from the USDA and state agricultural agencies. The number of events is based on either the number of agricultural establishments or individuals involved, or a multiple of this number based on the estimated number of occurrences per year. The time for each event is based on field experience in accomplishing such events. The overall estimate is for a typical year of full implementation. The burden in several categories has decreased significantly after the first year of implementation, because the training is required only once every five years. As such, the farmer conducts annual training only for those employees who have not received any training, or who received the training five or more years ago.

Central Information.

It is assumed that there will be one centrally posted notice per pesticide treatment per establishment that hires labor. It is also assumed that it will take an average of ten minutes for employers to post the notice and employees to read the information.

Annual notifications equal the number of establishments (309,100) multiplied by the average number of pesticide treatments (approximately 3.5) per establishment. The average number of 3.5 pesticide treatments is a good proxy only if each time a grower applied a pesticide he treated his entire acreage that normally is treated in a year. This is not always the case since many grow multiple crops, and even within a single crop a farmer may not treat all acres the same, or not all at once. A correction for this is to multiply the average number of pesticide treatments by an assumed factor of 3 (EPA estimate based on general knowledge) to equal an average of approximately 10.5 pesticide treatments per establishment, and accordingly, an estimated 3,245,393 central notification events.

Worker and Handler Notification.

It is assumed that: employers may orally notify workers of pesticide treatments or post treated areas (except for pesticides which are Toxicology Category I for dermal or eye, which require both); greenhouses will always post treated areas, and all others will always orally notify workers; one oral notification is necessary for each pesticide treatment when workers will be within 1/4 mile of the treated area during the restricted entry interval (REI); oral notification takes five minutes.

For all establishments other than greenhouses, each pesticide treatment would have an oral notification, whenever workers are within 1/4 mile during the REI. Therefore multiply the average number of pesticide treatments per establishment per year (10.5) by the average percent probability that workers will be within 1/4 mile of the treated area during the REI (50%), and multiply by the number of establishments which hire labor and use pesticides (309,085). For greenhouses (11,350), only pesticide treatments which are Toxicology Category I for dermal or eye will receive oral notification. An average of 50 treatments are made per greenhouse establishment per year. The percent of treatments in greenhouses which are Toxicology Category I for dermal or eye is 5%.

Table 1 - Total Annual Burden and Cost Estimates

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Activity	Total # People/ Events	Per Event Average (Burden in minutes)						Totals¹ (Burden in Hours)	
		Grower (\$54/hr.)²		Worker (\$17/hr.)		Total per Event			
		Burden	Cost (\$)	Burden	Cost(\$)	Burden	Cost (\$)	Burden	Cost (\$)
New Entrant Rule Familiarization	50,000	30	27.00	0	0.00	30	27.00	25,000	1,350,000
1) Poster	100,000	10	9.00	0	0.00	10	9.00	16,667	900,000
Central Notification	3,245,393	10	9.00	0	0.00	10	9.00	540,899	29,208,537
2) Oral Notifications	7,737,285	5	4.50	0	0.00	5	4.50	644,774	34,817,783
Posted Notifications	724,009	8	7.20	0	0.00	8	7.20	96,535	5,212,865
3) Basic Safety Information Conveyance	169,000	2	1.80	0	0.00	2	1.80	5,633	304,200
Worker Training	339,000	20	18.00	20	5.67	40	23.67	226,000	8,023,000
Handler Training	185,000	25	22.50	20	5.67	45	28.17	138,750	5,210,833
4) Gather Information	35,733	5	4.50	0	0.00	5	4.50	2,978	160,799
File or Disclose Information	35,733	3	2.70	0	0.00	3	2.70	1,787	96,479
5) Handler Notice of Ag Employer & Labeling Info.	1,875,705	10	9.00	5	1.42	15	10.42	468,926	19,538,594
Safe Operation and Repair	185,000	10	9.00	10	2.83	20	11.83	61,667	2,189,167
Provide Emergency Info. on Pesticide Treatments	52,400	20	18.00	10	2.83	30	20.83	26,200	1,091,667
6) Irrigation Exception	195,300	2.5	2.25	2.5	0.71	5	2.96	16,275	577,763
Limited Contact Exception	195,300	2.5	2.25	2.5	0.71	5	2.96	16,275	577,763
Crop Advisor Exemption	10,000	15	13.50	15	4.25	30	17.75	5,000	177,500
TOTALS								2,293,366	109,436,950

¹ Totals were determined as follows: Total Burden Hours: (total # events x burden minutes)÷60. Total Costs: (total # events x total per events costs)

² Based on the Regulatory Impact Analysis of the Worker Protection Standards Final Rule (1992), the loaded rate for grower costs varies from \$10 to \$85, based on size, farm vs. greenhouse/nursery, number of employees, number of acres, crop grown, etc... Since a majority of these growers are small, we used the lower end of the range. EPA uses \$54 as the average annual hourly rate for grower costs. This is an increase of about 13% from the growers burden rate of \$48 from the previous ICR, or about the same percentage increase as workers over the past three years.

Training Verification.

Upon the completion of the training, the WPS provides for the issuance of "EPA-approved Worker Protection Standard training certificates" to workers and handlers to allow employers to verify that workers and handlers have received WPS safety training. The EPA Training Verification Program is a voluntary program and the issuance of the training verification cards is not a WPS requirement. However, agricultural employers are relieved of the responsibility of safety training if their agricultural workers and pesticide handlers possess valid EPA training verification cards. Participating States will issue the cards to qualified training providers within the State. The program is intended to assist in substantiating WPS pesticide safety training, minimize the need for retraining (given the migrant nature of much of the workforce), offer an uncomplicated system for verifying training, provide a means for training quality control, and allow states flexibility in administering the program. The verification activity has a total annual burden of 4,765 burden hours and is covered in this ICR.

Irrigation and Limited Contact Exception.

There are 279,359 farms with irrigation in the United States (1992 Census). The average annual pesticide application is estimated to be 3.5 for irrigated acres. It is assumed to take about 2.5 minutes to supply the information to the irrigation workers. It is further assumed that 20 percent of the pesticide treatments would require the application of irrigation exception. The same working assumptions have been applied to the limited contact exception.

Handler and Emergency Information.

Using the estimates for worker and handler notification and training, the number of events for handler initiated notifications and the number of handler sessions on safe equipment operations was estimated. It was assumed that each commercial application would trigger a handler notification to the agricultural employer and that the same number of handlers would need instruction in safe equipment operation as would need the pesticide safety training.

It was also assumed that one percent of workers and handlers trained in any given year would require medical attention and request pesticide specific emergency information be provided to medical personnel. These workers and handlers are the most likely to be entering treated areas during the course of their employment.

6(b). Estimating Respondent Costs

According to OMB guidance, the costs associated with this type of burden should be represented by a labor rate, which consists of an estimated hourly wage rate and any estimated overhead expenses, e.g., facility expenses, capital expenditures, employee benefits, employment taxes, social security expenses, insurance expenses, and any other employment related expense. The Agency has assumed a loaded labor rate of \$17.00 per hour for agricultural workers. The average hourly rate for agricultural field workers is estimated to be \$8.50 by the National Agricultural Statistics Service, USDA (November 19, 2004). To account for overhead and

benefits, EPA has added an additional \$8.50 per hour to estimate the loaded labor rate.

Based on the economic analysis that was prepared for the WPS, the cost for growers can vary significantly from approximately \$10 to \$85, based on such factors as their size, whether they are a farm or greenhouse/nursery, the number of employees, the number of acres, the crop grown, etc. The majority of these growers are relatively small, so the costs fall closer to the lower end of this cost range. For calculating the rate to use for grower costs, EPA used \$48 as the hourly rate for grower costs in the last ICR. For purposes of this ICR update, EPA has increased the grower rate by the same percentage as the worker wage rate increase over that assumed in the last ICR, or about 13%. Thus, EPA has used \$54 for the hourly rate for grower costs in 2004.

6(c). Estimating Agency Burden and Cost

Not applicable. This ICR involves activities conducted by third parties. EPA does not conduct any activities under this ICR. Participating States are responsible for implementing voluntary training verification programs. As such, EPA does not incur any burden or cost under this ICR.

6(d). Estimating Respondent Universe and Total Burden and Cost

There are approximately 309,100 agricultural establishments in the U.S. and 3 million to 4 million farm workers. The burden estimates were developed on a per event basis, then aggregated using estimates of the number of events. Those estimates and assumptions were discussed in section 6(a) and are presented in Table 1. EPA estimates the total annual burden to be 2,293,364 hours at a total cost of \$109,436,947.

6(e). Bottom Line Burden Hours and Cost Tables

Bottom Line Estimated Burden Hours And Costs		
	Hours	Costs
Respondents	2,293,364	\$109,436,947
Agency	n/a	n/a

6(f). Reasons for Changes in Burden

This ICR renewal request will result in a net decrease in the annual respondent burden by 1,261 hours, from 2,294,625 hours for the previously approved ICR to 2,293,364 hours estimated for this renewal ICR. The estimated decrease represents an adjustment to the burden estimate, and is related to the removal of a cut rose exception from the burden estimate. EPA had previously planned to provide this exemption but has not implemented it to date. The costs related to this renewal ICR are estimated to have increased by about \$14.5 million over the costs estimated in the previous ICR and is related to an increase in EPA's estimated labor rates.

6(g). Burden Statement

The total annual respondent burden for providing the notifications associated with the Pesticides Worker Protection Standards as a whole is estimated to be 2,293,364 hours, with incremental activity burdens ranging from 2 minutes per respondent to provide initial basic safety information and 45 minutes per respondent for handler training. This total estimate includes the third party WPS training and notification requirements, e.g., provisions requiring employers to provide employees with pesticide-specific treatment (application) information in the form of oral or written notification, provisions requiring that employers assure that employees receive basic pesticide safety information or training, a voluntary program to verify training and relief duplication of training, provisions requiring handler notification to employers regarding pesticide treatments (applications) and provision for emergency information on pesticide treatments, and provisions requiring employers to notify employees when an exception/exemption to the WPS is being implemented. The agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this information collection appear at the beginning and the end of this document, on the forms approved under this ICR, and in the list of OMB control numbers for EPA's regulations in 40 CFR 9.1 (see attachment D).

To comment on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, EPA has established a public docket for this ICR under Docket ID No. OPP-2004-0310, which is available for public viewing at the OPP Docket in the Public Information and Records Integrity Branch, Rm. 119, Crystal Mall #2, 1801 Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305-5805.

An electronic version of the public docket for this ICR renewal is available through EPA Dockets (EDOCKET) at <http://www.epa.gov/edocket>. Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "quick search," and enter the docket ID number identified above. Also, you can send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503, Attention: Desk Officer for EPA. Please include the EPA Docket ID No. OPP-2004-0310 and OMB Control No. 2070-0148 in any correspondence.

ATTACHMENTS TO THE SUPPORTING STATEMENT

All attachments are available as part of the electronic copy of the ICR's Supporting Statement.

Attachment A	7 U.S.C. 136w (FIFRA Section 25)
Attachment B	40 CFR 170 (Worker Protection Standard)
Attachment C	List of Persons Consulted by EPA Regarding the ICR Renewal
Attachment D	Display Related to OMB Control #2070-0148 - Listings of Related Regulations in 40 CFR 9.1

February 1, 2005

EPA ICR No. 1759.04

OMB Control No. 2070-0148

ATTACHMENT A

Section 25 of the Federal Insecticide, Fungicide, and Rodenticide Act

Attachment A

Section 25 of the Federal Insecticide, Fungicide, and Rodenticide Act

SEC. 25. [7 U.S.C. 136w] AUTHORITY OF ADMINISTRATOR.

(a) IN GENERAL.—

(1) **REGULATIONS.**—The Administrator is authorized in accordance with the procedure described in paragraph (2), to prescribe regulations to carry out the provisions of this Act. Such regulations shall take into account the difference in concept and usage between various classes of pesticides, including public health pesticides, and differences in environmental risk and the appropriate data for evaluating such risk between agricultural, nonagricultural, and public health pesticides.

(2) PROCEDURE.—

(A) **PROPOSED REGULATIONS.**—At least 60 days prior to signing any proposed regulation for publication in the Federal Register, the Administrator shall provide the Secretary of Agriculture with a copy of such regulation. If the Secretary comments in writing to the Administrator regarding any such regulation within 30 days after receiving it, the Administrator shall publish in the Federal Register (with the proposed regulation) the comments of the Secretary and the response of the Administrator with regard to the Secretary's comments. If the Secretary does not comment in writing to the Administrator regarding the regulation within 30 days after receiving it, the Administrator may sign such regulation for publication in the Federal Register any time after such 30-day period notwithstanding the foregoing 60-day time requirement.

(B) **FINAL REGULATIONS.**—At least 30 days prior to signing any regulation in final form for publication in the Federal Register, the Administrator shall provide the Secretary of Agriculture with a copy of such regulation. If the Secretary comments in writing to the Administrator regarding any such final regulation within 15 days after receiving it, the Administrator shall publish in the Federal Register (with the final regulation) the comments of the Secretary, if requested by the Secretary, and the response of the Administrator concerning the Secretary's comments. If the Secretary does not comment in writing to the Administrator regarding the regulation within 15 days after receiving it, the Administrator may sign such regulation for publication in the Federal Register at any time after such 15-day period notwithstanding the foregoing 30-day time requirement. In taking any final action under this subsection, the Administrator shall include among those factors to be taken into account the effect of the regulation on production and prices of agricultural commodities, retail food prices, and otherwise on the agricultural economy, and the Administrator shall publish in the Federal Register an analysis of such effect.

(C) **TIME REQUIREMENTS.**—The time requirements imposed by subparagraphs (A) and (B) may be waived or modified to the extent agreed upon by the Administrator and the Secretary.

(D) **PUBLICATION IN THE FEDERAL REGISTER.**—The Administrator shall, simultaneously with any notification to the Secretary of Agriculture under this paragraph prior to the issuance of any proposed or final regulation, publish such notification in the Federal Register.

(3) CONGRESSIONAL COMMITTEES.—At such time as the Administrator is required under paragraph (2) of this subsection to provide the Secretary of Agriculture with a copy of proposed regulations and a copy of the final form of regulations, the Administrator shall also furnish a copy of such regulations to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(4) CONGRESSIONAL REVIEW OF REGULATIONS.—Simultaneously with the promulgation of any rule or regulation under this Act, the Administrator shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. The rule or regulation shall not become effective until the passage of 60 calendar days after the rule or regulation is so transmitted.

(b) EXEMPTION OF PESTICIDES.—The Administrator may exempt from the requirements of this Act by regulation any pesticide which the Administrator determines either (1) to be adequately regulated by another Federal agency, or (2) to be of a character which is unnecessary to be subject to this Act in order to carry out the purposes of this Act.

(c) OTHER AUTHORITY.—The Administrator, after notice and opportunity for hearing, is authorized—

(1) to declare a pest any form of plant or animal life (other than man and other than bacteria, virus, and other microorganisms on or in living man or other living animals) which is injurious to health or the environment;

(2) to determine any pesticide which contains any substance or substances in quantities highly toxic to man;

(3) to establish standards (which shall be consistent with those established under the authority of the Poison Prevention Packaging Act (Public Law 91–601)) with respect to the package, container, or wrapping in which a pesticide or device is enclosed for use or consumption, in order to protect children and adults from serious injury or illness resulting from accidental ingestion or contact with pesticides or devices regulated by this Act as well as to accomplish the other purposes of this Act;

(4) to specify those classes of devices which shall be subject to any provision of paragraph 2(q)(1) or section 7 of this Act upon the Administrator's determination that application of such provision is necessary to effectuate the purposes of this Act;

(5) to prescribe regulations requiring any pesticide to be colored or discolored if the Administrator determines that such requirement is feasible and is necessary for the protection of health and the environment; and

(6) to determine and establish suitable names to be used in the ingredient statement.

(d) SCIENTIFIC ADVISORY PANEL.—

(1) IN GENERAL.—The Administrator shall submit to an advisory panel for comment as to the impact on health and the environment of the action proposed in notices of intent issued under section 6(b) and of the proposed and final form of regulations issued under section 25(a) within the same time periods as provided for the comments of the Secretary of Agriculture under such sections. The time requirements for notices of intent and proposed and final forms of regulation may not be modified or waived unless in addition to meeting the requirements of section 6(b) or 25(a), as applicable, the advisory panel has failed to comment on the proposed action within the prescribed time period or has agreed to the modification or waiver. The Administrator shall also solicit from the advisory panel comments, evaluations,

and recommendations for operating guidelines to improve the effectiveness and quality of scientific analyses made by personnel of the Environmental Protection Agency that lead to decisions by the Administrator in carrying out the provisions of this Act. The comments, evaluations, and recommendations of the advisory panel submitted under this subsection and the response of the Administrator shall be published in the Federal Register in the same manner as provided for publication of the comments of the Secretary of Agriculture under such sections. The chairman of the advisory panel, after consultation with the Administrator, may create temporary subpanels on specific projects to assist the full advisory panel in expediting and preparing its evaluations, comments, and recommendations. The subpanels may be composed of scientists other than members of the advisory panel, as deemed necessary for the purpose of evaluating scientific studies relied upon by the Administrator with respect to proposed action. Such additional scientists shall be selected by the advisory panel. The panel referred to in this subsection shall consist of 7 members appointed by the Administrator from a list of 12 nominees, 6 nominated by the National Institutes of Health and 6 by the National Science Foundation, utilizing a system of staggered terms of appointment. Members of the panel shall be selected on the basis of their professional qualifications to assess the effects of the impact of pesticides on health and the environment. To the extent feasible to insure multidisciplinary representation, the panel membership shall include representation from the disciplines of toxicology, pathology, environmental biology, and related sciences. If a vacancy occurs on the panel due to expiration of a term, resignation, or any other reason, each replacement shall be selected by the Administrator from a group of 4 nominees, 2 submitted by each of the nominating entities named in this subsection. The Administrator may extend the term of a panel member until the new member is appointed to fill the vacancy. If a vacancy occurs due to resignation, or reason other than expiration of a term, the Administrator shall appoint a member to serve during the unexpired term utilizing the nomination process set forth in this subsection. Should the list of nominees provided under this subsection be unsatisfactory, the Administrator may request an additional set of nominees from the nominating entities. The Administrator may require such information from the nominees to the advisory panel as the Administrator deems necessary, and the Administrator shall publish in the Federal Register the name, address, and professional affiliations of each nominee. Each member of the panel shall receive per diem compensation at a rate not in excess of that fixed for GS-18 of the General Schedule as may be determined by the Administrator, except that any such member who holds another office or position under the Federal Government the compensation for which exceeds such rate may elect to receive compensation at the rate provided for such other office or position in lieu of the compensation provided by this subsection. In order to assure the objectivity of the advisory panel, the Administrator shall promulgate regulations regarding conflicts of interest with respect to the members of the panel. The advisory panel established under this section shall be permanent. In performing the functions assigned by this Act, the panel shall consult and coordinate its activities with the Science Advisory Board established under the Environmental Research, Development, and Demonstration Authorization Act of 1978. Whenever the Administrator exercises authority under section 6(c) of this Act to immediately suspend the registration of any pesticide to prevent an imminent hazard, the Administrator shall promptly submit to the advisory panel for comment, as to the impact on health and the environment, the action taken to suspend the

registration of such pesticide.

(2) SCIENCE REVIEW BOARD.—There is established a Science Review Board to consist of 60 scientists who shall be available to the Scientific Advisory Panel to assist in reviews conducted by the Panel. Members of the Board shall be selected in the same manner as members of temporary subpanels created under paragraph (1). Members of the Board shall be compensated in the same manner as members of the Panel.

(e) PEER REVIEW.—The Administrator shall, by written procedures, provide for peer review with respect to the design, protocols, and conduct of major scientific studies conducted under this Act by the Environmental Protection Agency or by any other Federal agency, any State or political subdivision thereof, or any institution or individual under grant, contract, or cooperative agreement from or with the Environmental Protection Agency. In such procedures, the Administrator shall also provide for peer review, using the advisory panel established under subsection (d) of this section or appropriate experts appointed by the Administrator from a current list of nominees maintained by such panel, with respect to the results of any such scientific studies relied upon by the Administrator with respect to actions the Administrator may take relating to the change in classification, suspension, or cancellation of a pesticide. When ever the Administrator determines that circumstances do not permit the peer review of the results of any such scientific study prior to the Administrator's exercising authority under section 6(c) of this Act to immediately suspend the registration of any pesticide to prevent an imminent hazard, the Administrator shall promptly thereafter provide for the conduct of peer review as provided in this sentence. The evaluations and relevant documentation constituting the peer review that relate to the proposed scientific studies and the results of the completed scientific studies shall be included in the submission for comment forwarded by the Administrator to the advisory panel as provided in subsection (d). As used in this subsection, the term "peer review" shall mean an independent evaluation by scientific experts, either within or outside the Environmental Protection Agency, in the appropriate disciplines.

February 1, 2005

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ATTACHMENT B

**40 CFR Part 170
Worker Protection Standard**

Title 40: Protection of Environment
PART 170—WORKER PROTECTION STANDARD

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AUTHORITY: 7 U.S.C. 136w.

SOURCE: 57 FR 38151, Aug. 21, 1992, unless otherwise noted.

Subpart A—General Provisions

§ 170.1 Scope and purpose.

This part contains a standard designed to reduce the risks of illness or injury resulting from workers' and handlers' occupational exposures to pesticides used in the production of agricultural plants on farms or in nurseries, greenhouses, and forests and also from the accidental exposure of workers and other persons to such pesticides. It requires workplace practices designed to reduce or eliminate exposure to pesticides and establishes procedures for responding to exposure-related emergencies.

§ 170.3 Definitions.

Terms used in this part have the same meanings they have in the Federal Insecticide, Fungicide, and Rodenticide Act, as amended. In addition, the following terms, when used in this part, shall have the following meanings:

Agricultural employer means any person who hires or contracts for the services of workers, for any type of compensation, to perform activities related to the production of agricultural plants, or any person who is an owner of or is responsible for the management or condition of an agricultural establishment that uses such workers.

Agricultural establishment means any farm, forest, nursery, or greenhouse.

Agricultural plant means any plant grown or maintained for commercial or research purposes and includes, but is not limited to, food, feed, and fiber plants; trees; turfgrass; flowers, shrubs; ornamentals; and seedlings.

Chemigation means the application of pesticides through irrigation systems.

Commercial pesticide handling establishment means any establishment, other than an agricultural establishment, that:

(1) Employs any person, including a self-employed person, to apply on an agricultural establishment, pesticides used in the production of agricultural plants.

(2) Employs any person, including a self-employed person, to perform on an agricultural establishment, tasks as a crop advisor.

Crop advisor means any person who is assessing pest numbers or damage, pesticide distribution, or the status or requirements of agricultural plants. The term does not include any person who is performing hand labor tasks.

Early entry means entry by a worker into a treated area on the agricultural establishment after a pesticide application is complete, but before any restricted-entry interval for the pesticide has expired.

Farm means any operation, other than a nursery or forest, engaged in the outdoor production of agricultural plants.

Forest means any operation engaged in the outdoor production of any agricultural plant to produce wood fiber or timber products.

Fumigant means any pesticide product that is a vapor or gas, or forms a vapor or gas on application, and whose method of pesticidal action is through the gaseous state.

Greenhouse means any operation engaged in the production of agricultural plants inside any structure or space that is enclosed with nonporous covering and that is of sufficient size to permit worker entry. This term includes, but is not limited to, polyhouses, mushroom houses, rhubarb houses, and similar structures. It does not include such structures as malls, atriums, conservatories, arboretums, or office buildings where agricultural plants are present primarily for aesthetic or climatic modification.

Hand labor means any agricultural activity performed by hand or with hand tools that causes a worker to have substantial contact with surfaces (such as plants, plant parts, or soil) that may contain pesticide residues. These activities include, but are not limited to, harvesting, detasseling, thinning, weeding, topping, planting, sucker removal, pruning, disbudding, roguing, and packing produce into containers in the field. Hand labor does not include operating, moving, or repairing irrigation or watering equipment or performing the tasks of crop advisors.

Handler means any person, including a self-employed person:

(1) Who is employed for any type of compensation by an agricultural establishment or commercial pesticide handling establishment to which subpart C of this part applies and who is:

- (i) Mixing, loading, transferring, or applying pesticides.
- (ii) Disposing of pesticides or pesticide containers.
- (iii) Handling opened containers of pesticides.
- (iv) Acting as a flagger.
- (v) Cleaning, adjusting, handling, or repairing the parts of mixing, loading, or application equipment that may contain pesticide residues.
- (vi) Assisting with the application of pesticides.
- (vii) Entering a greenhouse or other enclosed area after the application and before the inhalation exposure level listed in the labeling has been reached or one of the ventilation criteria established by this part (§170.110(c)(3)) or in the labeling has been met:
 - (A) To operate ventilation equipment.
 - (B) To adjust or remove coverings used in fumigation.
 - (C) To monitor air levels.
- (viii) Entering a treated area outdoors after application of any soil fumigant to adjust or remove soil coverings such as tarpaulins.
- (ix) Performing tasks as a crop advisor:
 - (A) During any pesticide application.
 - (B) Before the inhalation exposure level listed in the labeling has been reached or one of the ventilation criteria established by this part (§170.110(c)(3)) or in the labeling has been met.
 - (C) During any restricted-entry interval.

(2) The term does not include any person who is only handling pesticide containers that have been emptied or cleaned according to pesticide product labeling instructions or, in the absence of such instructions, have been subjected to triple-rinsing or its equivalent.

Handler employer means any person who is self-employed as a handler or who employs any handler, for any type of compensation.

Immediate family includes only spouse, children, stepchildren, foster children, parents, stepparents, foster parents, brothers, and sisters.

Nursery means any operation engaged in the outdoor production of any agricultural plant to produce cut flowers and ferns or plants that will be used in their entirety in another location. Such plants include, but are not limited to, flowering and foliage plants or trees; tree seedlings; live Christmas trees; vegetable, fruit, and ornamental transplants; and turfgrass produced for sod.

Owner means any person who has a present possessory interest (fee, leasehold, rental, or other) in an agricultural establishment covered by this part. A person who has both leased such agricultural establishment to another person and granted that same person the right and full authority to manage and govern the use of such agricultural establishment is not an owner for purposes of this part.

Restricted-entry interval means the time after the end of a pesticide application during which entry into the treated area is restricted.

Treated area means any area to which a pesticide is being directed or has been directed.

Worker means any person, including a self-employed person, who is employed for any type of compensation and who is performing activities relating to the production of agricultural plants on an agricultural establishment to which subpart B of this part applies. While persons employed by a commercial pesticide handling establishment are performing tasks as crop advisors, they are not workers covered by the requirements of subpart B of this part.

§ 170.5 Effective date and compliance dates.

(a) *Effective date.* The effective date for this part, including §170.112(e), shall be October 20, 1992.

(b) *Accelerated provisions.* The compliance date shall be April 21, 1993, for:

- (1) Section 170.112(a) through (c)(3);
- (2) Section 170.112(d)(1) through (d)(2)(ii);
- (3) The requirement of §170.112(c)(3) as referenced in §170.112(d)(2)(iii);
- (4) The requirement of §170.112(c)(3) as referenced in §170.112(e)(5);
- (5) Section 170.120(a)(3); and
- (6) Section 170.120(b)(3).

(c) *All other provisions.* The compliance date for all other provisions of this part shall be April 15, 1994.

§ 170.7 General duties and prohibited actions.

(a) *General duties.* The agricultural employer or the handler employer, as appropriate, shall:

(1) Assure that each worker subject to subpart B of this part or each handler subject to subpart C of this part receives the protections required by this part.

(2) Assure that any pesticide to which subpart C of this part applies is used in a manner consistent with the labeling of the pesticide, including the requirements of this part.

(3) Provide, to each person who supervises any worker or handler, information and directions sufficient to assure that each worker or handler receives the protections required by this part. Such information and directions shall specify which persons are responsible for actions required to comply with this part.

(4) Require each person who supervises any worker or handler to assure compliance by the worker or handler with the provisions of this part and to assure that the worker or handler receives the protections required by this part.

(b) *Prohibited actions.* The agricultural employer or the handler employer shall not take any retaliatory action for attempts to comply with this part or any action having the effect of preventing or discouraging any worker or handler from complying or attempting to comply with any requirement of this part.

§ 170.9 Violations of this part.

(a) Under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) (FIFRA) section 12(a)(2)(G) it is unlawful for any person “to use any registered pesticide in a manner inconsistent with its labeling.” When this part is referenced on a label, users must comply with all of its requirements except those that are inconsistent with product-specific instructions on the labeling. For the purposes of this part, EPA interprets the term “use” to include:

(1) Preapplication activities, including, but not limited to:

- (i) Arranging for the application of the pesticide;
- (ii) Mixing and loading the pesticide; and
- (iii) Making necessary preparations for the application of the pesticide, including responsibilities related to worker notification, training of handlers, decontamination, use and care of personal protective equipment, emergency information, and heat stress management.

(2) Application of the pesticide.

(3) Post-application activities necessary to reduce the risks of illness and injury resulting from handlers' and workers' occupational exposures to pesticide residues during the restricted-entry interval plus 30 days. These activities include, but are not limited to, responsibilities related to worker training, notification, and decontamination.

(4) Other pesticide-related activities, including, but not limited to, providing emergency assistance, transporting or storing pesticides that have been opened, and disposing of excess pesticides, spray mix, equipment wash waters, pesticide containers, and other pesticide-containing materials.

(b) A person who has a duty under this part, as referenced on the pesticide product label, and who fails to perform that duty, violates FIFRA section 12(a)(2)(G) and is subject to a civil penalty under section 14. A person who knowingly violates section 12(a)(2)(G) is subject to section 14 criminal sanctions.

(c) FIFRA section 14(b)(4) provides that a person is liable for a penalty under FIFRA if another person employed by or acting for that person violates any provision of FIFRA. The term “acting for” includes both employment and contractual relationships.

(d) The requirements of this part, including the decontamination requirements, shall not, for the purposes of section 653(b)(1) of title 29 of the U.S. Code, be deemed to be the exercise of statutory authority to prescribe or enforce standards or regulations affecting the general sanitary hazards addressed by the OSHA Field Sanitation Standard, 29 CFR 1928.110, or other agricultural, nonpesticide hazards.

Subpart B—Standard for Workers

§ 170.102 Applicability of this subpart.

Except as provided by §§170.103 and 170.104, this subpart applies when any pesticide product is used on an agricultural establishment in the production of agricultural plants.

[60 FR 21952, May 3, 1995]

§ 170.103 Exceptions.

Exceptions. This subpart does not apply when any pesticide is applied on an agricultural establishment in the following circumstances:

(a) For mosquito abatement, Mediterranean fruit fly eradication, or similar wide-area public pest control programs sponsored by governmental entities;

(b) On livestock or other animals, or in or about animal premises;

(c) On plants grown for other than commercial or research purposes, which may include plants in habitations, home fruit and vegetable gardens, and home greenhouses;

(d) On plants that are in ornamental gardens, parks, and public or private lawns and grounds that are intended only for aesthetic purposes or climatic modification;

(e) By injection directly into agricultural plants. Direct injection does not include “hack and squirt,” “frill and spray,” chemigation, soil-incorporation, or soil-injection;

(f) In a manner not directly related to the production of agricultural plants, including, but not limited to, structural pest control, control of vegetation along rights-of-way and in other noncrop areas, and pasture and rangeland use;

(g) For control of vertebrate pests;

(h) As attractants or repellents in traps;

(i) On the harvested portions of agricultural plants or on harvested timber; and

(j) For research uses of unregistered pesticides.

[57 FR 38151, Aug. 21, 1992. Redesignated at 60 FR 21952, May 3, 1995]

§ 170.104 Exemptions.

The workers listed in this section are exempt from the specified provisions of this subpart.

(a) *Owners of agricultural establishments.* (1) The owner of an agricultural establishment is not required to provide to himself or members of his immediate family who are performing tasks related to the production of agricultural plants on their own agricultural establishment the protections of:

(i) Section 170.112(c)(5) through (9).

(ii) Section 170.112(c)(5) through (9) as referenced in §§170.112(d)(2)(iii) and 170.112(e).

(iii) Section 170.120.

(iv) Section 170.122.

(v) Section 170.130.

(vi) Section 170.135.

(vii) Section 170.150.

(viii) Section 170.160.

(2) The owner of the agricultural establishment must provide the protections listed in paragraph (a)(1)(i) through (viii) of this section to other workers and other persons who are not members of his immediate family.

(b) *Crop advisors.* (1) Provided that the conditions of paragraph (b)(2) of this section are met, a person who is certified or licensed as a crop advisor by a program acknowledged as appropriate in writing by EPA or a State or Tribal lead agency for pesticide enforcement, and persons performing crop advising tasks under such qualified crop advisor's direct supervision, are exempt from the provisions of:

(i) Section 170.150.

(ii) Section 170.160.

A person is under the direct supervision of a crop advisor when the crop advisor exerts the supervisory controls set out in paragraphs (b)(2)(iii) and (iv) of this section. Direct supervision does not require that the crop advisor be physically present at all times, but the crop advisor must be readily accessible to the employees at all times.

(2) *Conditions of exemption.* (i) The certification or licensing program requires pesticide safety training that includes, at least, all the information in §170.230(c)(4).

(ii) Applies only when performing crop advising tasks in the treated area.

(iii) The crop advisor must make specific determinations regarding the appropriate PPE, appropriate decontamination supplies, and how to conduct the tasks safely. The crop advisor must convey this information to each person under his direct supervision in a language that the person understands.

(iv) Before entering a treated area, the certified or licensed crop advisor must inform, through an established practice of communication, each person under his direct supervision of the pesticide product and active ingredient(s) applied, method of application, time of application, the restricted entry interval, which tasks to undertake, and how to contact the crop advisor.

(c) *Grace period for persons performing crop advisor tasks who are not certified or licensed.*

(1) Provided that the conditions of paragraph (c)(2) of this section are met, a person who is neither certified nor licensed as a crop advisor and any person performing crop advising tasks under his direct supervision is exempt until May 1, 1996, from the requirements of:

(i) Section 170.130.

(ii) Section 170.150.

(iii) Section 170.160.

(2) *Conditions of exemption.* (i) Applies only when the persons are performing crop advising tasks in the treated area.

(ii) The crop advisor must make specific determinations regarding the appropriate PPE, appropriate decontamination supplies, and how to conduct the tasks safely. The crop advisor must convey this information to each person under his direct supervision in a language that the person understands.

(iii) Before entering a treated area, the crop advisor must inform, through an established practice of communication, each person under his direct supervision of the active ingredient, method of application, time of application, the restricted entry interval, which tasks to undertake, and how to contact the crop advisor.

[60 FR 21952, May 3, 1995]

§ 170.110 Restrictions associated with pesticide applications.

(a) *Farms and forests.* During the application of any pesticide on a farm or in a forest, the agricultural employer shall not allow or direct any person, other than an appropriately trained and equipped handler, to enter or to remain in the treated area.

(b) *Nurseries.* In a nursery, during any pesticide application described in column A of Table 1 of this paragraph, the agricultural employer shall not allow or direct any person, other than an appropriately trained and equipped handler, to enter or to remain in the area specified in column B of Table 1 of this paragraph. After the application is completed, until the end of any restricted-entry interval, the entry-restricted area is the treated area.

TABLE 1—ENTRY-RESTRICTED AREAS IN NURSERIES DURING PESTICIDE APPLICATIONS

A. During Application of a Pesticide:	B. Workers are Prohibited in:
(1)(a) Applied: (i) Aerially, or (ii) In an upward direction, or (iii) Using a spray pressure greater than 150 psi, or (b) Applied as a: (i) Fumigant, or (ii) Smoke, or (iii) Mist, or (iv) Fog, or (v) Aerosol.	Treated area plus 100 feet in all directions on the nursery
(2)(a) Applied downward using: (i) A height of greater than 12 inches from the planting medium, or (ii) A fine spray, or (iii) A spray pressure greater than 40 psi and less than 150 psi. (b) Not as in 1 or 2(a) above but for which a respiratory protection device is required for application by the product labeling.	Treated area plus 25 feet in all directions on the nursery
(3) Applied otherwise.	Treated area

(c) *Greenhouses.* (1) When a pesticide application described in column A of Table 2 under paragraph (c)(4) of this section takes place in a greenhouse, the agricultural employer shall not allow or direct any person, other than an appropriately trained and equipped handler, to enter or to remain in the area specified in column B of Table 2 until the time specified in column C of Table 2 has expired.

(2) After the time specified in column C of Table 2 under paragraph (c)(4) of this section has expired, until the expiration of any restricted-entry interval, the agricultural employer shall not allow or direct any worker to enter or to remain in the treated area as specified in column D of Table 2 under paragraph (c)(4) of this section, except as provided in § 170.112.

(3) When column C of Table 2 under paragraph (c)(4) of this section specifies that ventilation criteria must be met, ventilation shall continue until the air concentration is measured to be equal to or less than the inhalation exposure level the labeling requires to be achieved. If no inhalation exposure level is listed on the labeling, ventilation shall continue until after:

(i) Ten air exchanges are completed; or

- (ii) Two hours of ventilation using fans or other mechanical ventilating systems; or
 - (iii) Four hours of ventilation using vents, windows or other passive ventilation; or
 - (iv) Eleven hours with no ventilation followed by 1 hour of mechanical ventilation; or
 - (v) Eleven hours with no ventilation followed by 2 hours of passive ventilation; or
 - (vi) Twenty-four hours with no ventilation.
- (4) The following Table 2 applies to paragraphs (c) (1), (2), and (3) of this section.

TABLE 2—GREENHOUSE ENTRY RESTRICTIONS ASSOCIATED WITH PESTICIDE APPLICATIONS

A. When a Pesticide is Applied:	B. Workers are Prohibited in:	C. Until:	D. After the Expiration of Time in Column C Until the Restricted-Entry Interval Expires, the Entry-Restricted Area is:
(1) As a fumigant	Entire greenhouse plus any adjacent structure that cannot be sealed off from the treated area	The ventilation criteria of paragraph (c)(3) of this section are met	No entry restrictions after criteria in column C are met
(2) As a (i) Smoke, or (ii) Mist, or (iii) Fog, or (iv) Aerosol	Entire enclosed area	The ventilation criteria of paragraph (c)(3) of this section are met	Entire enclosed area is the treated area
(3) Not in 1 or 2 above, and for which a respiratory protection device is required for application by the product labeling	Entire enclosed area	The ventilation criteria of paragraph (c)(3) of this section are met	Treated area
(4) Not in 1, 2, or 3 above, and: (i) From a height of greater than 12 in. from the planting medium, or (ii) As a fine spray, or (iii) Using a spray pressure greater than 40 psi	Treated area plus 25 feet in all directions in the enclosed area	Application is complete	Treated area
(5) Otherwise	Treated area	Application is complete	Treated area

§ 170.112 Entry restrictions.

(a) *General restrictions.* (1) After the application of any pesticide on an agricultural employer shall not allow or direct any worker to enter or to remain in the treated area before the restricted-entry interval specified on the pesticide labeling has expired, except as provided in this section.

(2) Entry-restricted areas in greenhouses are specified in column D in table 2 under §170.110(c)(4).

(3) When two or more pesticides are applied at the same time, the restricted-entry interval shall be the longest of the applicable intervals.

(4) The agricultural employer shall assure that any worker who enters a treated area under

a restricted-entry interval as permitted by paragraphs (c), (d), and (e) of this section uses the personal protective equipment specified in the product labeling for early-entry workers and follows any other requirements on the pesticide labeling regarding early entry.

(b) *Exception for activities with no contact.* A worker may enter a treated area during a restricted-entry interval if the agricultural employer assures that both of the following are met:

(1) The worker will have no contact with anything that has been treated with the pesticide to which the restricted-entry interval applies, including, but not limited to, soil, water, air, or surfaces of plants; and

(2) No such entry is allowed until any inhalation exposure level listed in the labeling has been reached or any ventilation criteria established by §170.110(c)(3) or in the labeling have been met.

(c) *Exception for short-term activities.* A worker may enter a treated area during a restricted-entry interval for short-term activities if the agricultural employer assures that the following requirements are met:

(1) No hand labor activity is performed.

(2) The time in treated areas under a restricted-entry interval for any worker does not exceed 1 hour in any 24-hour period.

(3) No such entry is allowed for the first 4 hours following the end of the application, and no such entry is allowed thereafter until any inhalation exposure level listed in the labeling has been reached or any ventilation criteria established by §170.110(c)(3) or in the labeling have been met.

(4) The personal protective equipment specified on the product labeling for early entry is provided to the worker. Such personal protective equipment shall conform to the following standards:

(i) Personal protective equipment (PPE) means devices and apparel that are worn to protect the body from contact with pesticides or pesticide residues, including, but not limited to, coveralls, chemical-resistant suits, chemical-resistant gloves, chemical-resistant footwear, respiratory protection devices, chemical-resistant aprons, chemical-resistant headgear, and protective eyewear.

(ii) Long-sleeved shirts, short-sleeved shirts, long pants, short pants, shoes, socks, and other items of work clothing are not considered personal protective equipment for the purposes of this section and are not subject to the requirements of this section, although pesticide labeling may require that such work clothing be worn during some activities.

(iii) When “chemical-resistant” personal protective equipment is specified by the product labeling, it shall be made of material that allows no measurable movement of the pesticide being used through the material during use.

(iv) When “waterproof” personal protective equipment is specified by the product labeling, it shall be made of material that allows no measurable movement of water or aqueous solutions through the material during use.

(v) When a “chemical-resistant suit” is specified by the product labeling, it shall be a loose-fitting, one- or two-piece, chemical-resistant garment that covers, at a minimum, the entire body except head, hands, and feet.

(vi) When “coveralls” are specified by the product labeling, they shall be a loose-fitting, one- or two-piece garment, such as a cotton or cotton and polyester coverall, that

covers, at a minimum, the entire body except head, hands, and feet. The pesticide product labeling may specify that the coveralls be worn over a layer of clothing. If a chemical-resistant suit is substituted for coveralls, it need not be worn over a layer of clothing.

(vii)(A) Gloves shall be of the type specified on the pesticide product labeling. Gloves made of leather, cotton, or other absorbent materials must not be worn for early-entry activities, unless gloves made of these materials are listed as acceptable for such use on the product labeling. If chemical-resistant gloves with sufficient durability and suppleness are not obtainable, leather gloves may be worn on top of chemical-resistant gloves. However, once leather gloves have been worn for this use, they shall not be worn thereafter for any other purpose, and they shall only be worn over chemical-resistant gloves.

(B) Separable glove liners may be worn beneath chemical-resistant gloves, unless the pesticide product labeling specifically prohibits their use. Separable glove liners are defined as separate glove-like hand coverings made of lightweight material, with or without fingers. Work gloves made from lightweight cotton or poly-type material are considered to be glove liners if worn beneath chemical-resistant gloves. Separable glove liners may not extend outside the chemical-resistant gloves under which they are worn. Chemical-resistant gloves with non-separable absorbent lining materials are prohibited.

(C) If used, separable glove liners must be discarded immediately after a total of no more than 10 hours of use or within 24 hours of when first put on, whichever comes first. The liners must be replaced immediately if directly contacted by pesticide. Used glove liners shall not be reused. Contaminated liners must be disposed of in accordance with any Federal, State, or local regulations.

(viii) When “chemical-resistant footwear” is specified by the product labeling, it shall be one of the following types of footwear: chemical-resistant shoes, chemical-resistant boots, or chemical-resistant shoe coverings worn over shoes or boots. If chemical-resistant footwear with sufficient durability and a tread appropriate for wear in rough terrain is not obtainable for workers, then leather boots may be worn in such terrain.

(ix) When “protective eyewear” is specified by the product labeling, it shall be one of the following types of eyewear: goggles; face shield; safety glasses with front, brow, and temple protection; or a full-face respirator.

(x) When “chemical-resistant headgear” is specified by the product labeling, it shall be either a chemical-resistant hood or a chemical-resistant hat with a wide brim.

(5) The agricultural employer shall assure that the worker, before entering the treated area, either has read the product labeling or has been informed, in a manner that the worker can understand, of all labeling requirements related to human hazards or precautions, first aid, symptoms of poisoning, personal protective equipment specified for early entry, and any other labeling requirements related to safe use.

(6) The agricultural employer shall assure that:

(i) Workers wear the personal protective equipment correctly for its intended purpose and use personal protective equipment according to manufacturer's instructions.

(ii) Before each day of use, all personal protective equipment is inspected for leaks, holes, tears, or worn places, and any damaged equipment is repaired or discarded.

(iii) Personal protective equipment that cannot be cleaned properly is disposed of in accordance with any applicable Federal, State, and local regulations.

(iv) All personal protective equipment is cleaned according to manufacturer's instructions or pesticide product labeling instructions before each day of reuse. In the absence of any such instructions, it shall be washed thoroughly in detergent and hot water.

(v) Before being stored, all clean personal protective equipment is dried thoroughly or is put in a well-ventilated place to dry.

(vi) Personal protective equipment contaminated with pesticides is kept separately and washed separately from any other clothing or laundry.

(vii) Any person who cleans or launders personal protective equipment is informed that such equipment may be contaminated with pesticides, of the potentially harmful effects of exposure to pesticides, and of the correct way(s) to handle and clean personal protective equipment and to protect themselves when handling equipment contaminated with pesticides.

(viii) All clean personal protective equipment is stored separately from personal clothing and apart from pesticide-contaminated areas.

(ix) Each worker is instructed how to put on, use, and remove the personal protective equipment and is informed about the importance of washing thoroughly after removing personal protective equipment.

(x) Each worker is instructed in the prevention, recognition, and first aid treatment of heat-related illness.

(xi) Workers have a clean place(s) away from pesticide-storage and pesticide-use areas for storing personal clothing not in use; putting on personal protective equipment at the start of any exposure period; and removing personal protective equipment at the end of any exposure period.

(7) When personal protective equipment is required by the labeling of any pesticide for early entry, the agricultural employer shall assure that no worker is allowed or directed to perform the early-entry activity without implementing, when appropriate, measures to prevent heat-related illness.

(8) During any early-entry activity, the agricultural employer shall provide a decontamination site in accordance with §170.150.

(9) The agricultural employer shall not allow or direct any worker to wear home or to take home personal protective equipment contaminated with pesticides.

(d) *Exception for an agricultural emergency.* (1) An “agricultural emergency” means a sudden occurrence or set of circumstances which the agricultural employer could not have anticipated and over which the agricultural employer has no control, and which requires entry into a treated area during a restricted-entry interval, when no alternative practices would prevent or mitigate a substantial economic loss. A substantial economic loss means a loss in profitability greater than that which would be expected based on the experience and fluctuations of crop yields in previous years. Only losses caused by the agricultural emergency specific to the affected site

and geographic area are considered. The contribution of mismanagement cannot be considered in determining the loss.

(2) A worker may enter a treated area under a restricted-entry interval in an agricultural emergency to perform tasks, including hand labor tasks, necessary to mitigate the effects of the agricultural emergency, if the agricultural employer assures that all the following criteria are met:

(i) A State, Tribal, or Federal Agency having jurisdiction declares the existence of circumstances that could cause an agricultural emergency on that agricultural establishment.

(ii) The agricultural employer determines the agricultural establishment is subject to the circumstances declared under paragraph (d)(2)(i) of this section that result in an agricultural emergency meeting the criteria of paragraph (d)(1) of this section.

(iii) The requirements of paragraphs (c) (3) through (9) of this section are met.

(e) *Exception requiring Agency approval.* The Agency may, in accordance with paragraphs (e)(1) through (3) of this section, grant an exception from the requirements of this section. An exception may be withdrawn in accordance with paragraph (e)(6) of this section.

(1) *Requesting an exception.* A request for an exception must be submitted to the Director, Office of Pesticide Programs (H-7501C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460 and must be accompanied by two copies of the following information:

(i) The name, address, and telephone number of the submitter.

(ii) The time period for which the exception is requested.

(iii) A description of the crop(s) and specific crop production task(s) for which the exception is requested. Such a description must include an explanation as to the necessity of applying pesticides of a type and at a frequency such that the restricted-entry interval would interfere with necessary and time-sensitive hand labor tasks for the period for which the exception is sought.

(iv) A description of the geographic area for which the exception is requested. If the exception request is for a limited geographic area, the explanation must include a description as to why the circumstances of exposure or economic impact resulting from the prohibition of routine hand labor tasks during the restricted-entry interval are unique to the geographic area named in the exception.

(v) An explanation as to why, for each requested crop-task combination, alternative practices would not be technically or financially viable. Such alternative practices might include: rescheduling the pesticide application or hand labor activity; using a non-chemical pest control alternative; using an alternative to the hand labor tasks, such as machine cultivation; or substituting a pesticide with a shorter restricted-entry interval. This information should include estimates or data on per acre revenue and cost of production for the crop and area for which the exception is requested. These estimates or data should include: the situation prior to implementation of this final rule, the situation after implementation of this final rule if the exception is not granted, the situation after implementation of this final rule if the exception is granted, and specific information on individual factors which cause differences in revenues and costs among the three situations.

(vi) A description or documentation of the safety and feasibility of such an exception, including, but not limited to, the feasibility of performing the necessary hand labor activity while wearing the personal protective equipment required for early entry for the pesticide(s) expected to be applied, the means of mitigating heat-related illness concerns, the period of time required daily per worker to perform the hand labor activity, any suggested methods of reducing the worker's exposure, and any other mitigating factors, such as the availability of running water for routine and emergency decontamination and mechanical devices that would reduce the workers' contact with the treated surfaces. The information should include the costs associated with early-entry, such as decontamination facilities, special information and training for the workers, heat stress avoidance procedures, and provision, inspection, cleaning, and maintenance of personal protective equipment. EPA will not grant exceptions where the costs of early entry equal or exceed the expected loss in value of crop yield or quality.

(2) *Notice of receipt.* (i) When a request for an exception is submitted to the Agency along with all of the information required in paragraph (e)(1) of this section, the Agency shall issue a notice in the Federal Register stating that an exception is being considered, describing the nature of the exception, and allowing at least 30 days for interested parties to comment.

(ii) If a request for an exception is submitted to the Agency without all of the information required in paragraph (e)(1) of this section, the Agency shall return the request to the submitter.

(3) *Exception decision.* EPA will publish in the Federal Register its decision whether to grant the request for exception. EPA will base its decision on whether the benefits of the exception outweigh the costs, including the value of the health risks attributable to the exception. If the exception is granted, the notice will state the nature of and reasons for the exception.

(4) *Presumptive denial.* (i) Except as provided in paragraph (e)(4)(ii) of this section, persons requesting an exception may assume that the exception has been denied if EPA has not issued its decision whether to grant the exception within 9 months from the comment-closure date specified in the Federal Register notice in which the Agency announced, in accordance with paragraph (e)(2) of this section, that it would consider the exception.

(ii) Persons requesting an exception may not assume that the request has been denied as provided by paragraph (e)(4)(i) of this section if the Agency has taken action to extend its review period for a specified time interval due to the complexity of the exception request or to the number of exception requests concurrently under Agency review. EPA shall state the reason(s) for the delay in issuing a decision on the exception request. A notice of such an action may be published in the Federal Register or persons who requested the exception may be directly notified of the action.

(5) *Agricultural employer duties.* When a worker enters a treated area during a restricted-entry interval under an exception granted under paragraph (e) of this section, the agricultural employer shall assure that the requirements of paragraphs (c) (3) through (9) of this section are met, unless the notice granting the exception specifically indicates otherwise.

(6) *Withdrawing an exception.* An exception may be withdrawn by the Agency at any time if the Agency receives poisoning information or other data that indicate that the health risks imposed by this early-entry exception are unacceptable or if the Agency receives other

information that indicates that the exception is no longer necessary or prudent. If the Agency determines that an exception should be withdrawn, it will publish a notice in the Federal Register, stating the basis for its determination. Affected parties would then have 30 days to request a hearing on the Agency's determination. The exception, however, would be discontinued as of the date specified by EPA in the notice, which may include any of the 30-day period and the time required for any subsequent hearing process. Thereafter the Agency will decide whether to withdraw the exception and will publish a notice in the Federal Register stating its decision.

(7) *List of exceptions granted by EPA.* The following administrative exceptions from the requirements of this section have been granted by EPA. Each exception listed in paragraph (e)(7) of this section contains a reference to the Federal Register notice in which EPA has granted the exception and the effective dates of the exception. The terms and conditions of the exception appear in the referenced Federal Register notice.

(i) Exception for hand labor to harvest greenhouse-grown cut roses published in the Federal Register of June 10, 1994, effective from June 10, 1994, to June 10, 1996.

(ii) Exception to perform irrigation tasks under specified conditions published in the Federal Register of May 3, 1995.

(iii) Exceptions to perform limited contact tasks under specified conditions published in the Federal Register of May 3, 1995.

(iv) Exception for hand labor to harvest greenhouse-grown roses under specified conditions published in the Federal Register of October 3, 1997, effective December 18, 1996 to October 4, 1999.

[57 FR 38151, Aug. 21, 1992, as amended at 59 FR 30264, June 10, 1994; 60 FR 21954, May 3, 1995; 62 FR 52003, Oct. 3, 1997; 69 FR 53346, Sept. 1, 2004]

§ 170.120 Notice of applications.

(a) *Notification to workers of pesticide applications in greenhouses.* The agricultural employer shall notify workers of any pesticide application in the greenhouse in accordance with this paragraph.

(1) All pesticide applications shall be posted in accordance with paragraph (c) of this section.

(2) If the pesticide product labeling has a statement requiring both the posting of treated areas and oral notification to workers, the agricultural employer shall also provide oral notification of the application to the worker in accordance with paragraph (d) of this section.

(3) Notice need not be given to a worker if the agricultural employer can assure that one of the following is met:

(i) From the start of the application until the end of the application and during any restricted-entry interval, the worker will not enter, work in, remain in, or pass through the greenhouse; or

(ii) The worker applied (or supervised the application of) the pesticide for which the notice is intended and is aware of all information required by paragraphs (d)(1) through (3) of this section.

(b) *Notification to workers on farms, in nurseries, or in forests of pesticide applications.* The agricultural employer shall notify workers of any pesticide application on the farm or in the nursery or forest in accordance with this paragraph.

(1) If the pesticide product labeling has a statement requiring both the posting of treated areas and oral notification to workers, the agricultural employer shall post signs in accordance with paragraph (c) of this section and shall provide oral notification of the application to the worker in accordance with paragraph (d) of this section.

(2) For any pesticide other than those for which the labeling requires both posting and oral notification of applications, the agricultural employer shall give notice of the application to the worker either by the posting of warning signs in accordance with paragraph (c) of this section or orally in accordance with paragraph (d) of this section, and shall inform the workers as to which method of notification is in effect.

(3) Notice need not be given to a worker if the agricultural employer can assure that one of the following is met:

(i) From the start of the application until the end of the application and during any restricted-entry interval, the worker will not enter, work in, remain in, or pass through on foot the treated area or any area within 1/4 mile of the treated area; or

(ii) The worker applied (or supervised the application of) the pesticide for which the notice is intended and is aware of all information required by (d)(1) through (3) of this section.

(c) *Posted warning signs.* The agricultural employer shall post warning signs in accordance with the following criteria:

(1) The warning sign shall have a background color that contrasts with red. The words "DANGER" and "PELIGRO," plus "PESTICIDES" and "PESTICIDAS," shall be at the top of the sign, and the words "KEEP OUT" and "NO ENTRE" shall be at the bottom of the sign. Letters for all words must be clearly legible. A circle containing an upraised hand on the left and a stern face on the right must be near the center of the sign. The inside of the circle must be red, except that the hand and a large portion of the face must be in a shade that contrasts with red. The length of the hand must be at least twice the height of the smallest letters. The length of the face must be only slightly smaller than the hand. Additional information such as the name of the pesticide and the date of application may appear on the warning sign if it does not detract from the appearance of the sign or change the meaning of the required information. A black-and-white example of a warning sign meeting these requirements, other than the size requirements, follows:



Image Not
Available

(2) The standard sign shall be at least 14 inches by 16 inches with letters at least 1 inch in height. Farms and forests shall use the standard size sign unless a smaller sign is necessary because the treated area is too small to accommodate a sign of this size. In nurseries and greenhouses, the agricultural employer may, at any time, use a sign smaller than the standard size sign. Whenever a small sign is used on any establishment, there are specific posting distances depending on the size of the lettering and symbol on the sign. If a sign is used with DANGER and PELIGRO in letters at least 7/8 inch in height and the remaining letters at least 1/2 inch in height and a red circle at least 3 inches in diameter containing an upraised hand and a stern face, the signs shall be no further than 50 feet apart. If a sign is used with DANGER and PELIGRO in letters at least 7/16 inch in height and the remaining letters at least 1/4 inch in height and a red circle at least 1 1/2 inches in diameter containing an upraised hand and a stern face, the signs shall be no further than 25 feet apart. A sign with DANGER and PELIGRO in letters less than 7/16 inch in height or with any words in letters less than 1/4 inch in height or a red circle smaller than 1 1/2 inches in diameter containing an upraised hand and a stern face will not satisfy the requirements of the rule. All signs must meet the requirements of paragraph (c)(1) of this section.

(3) The employer may replace the Spanish portion of the warning sign with a non-English language read by the largest group of workers who do not read English. The replacement sign must be in the same format as the original sign and be visible and legible.

(4) On farms and in forests and nurseries, the signs shall be visible from all usual points of worker entry to the treated area, including at least each access road, each border with any labor camp adjacent to the treated area, and each footpath and other walking route that enters the treated area. When there are no usual points of worker entry, signs shall be posted in the corners of the treated area or in any other location affording maximum visibility.

(5) In greenhouses, the signs shall be posted so they are visible from all usual points of worker entry to the treated area including each aisle or other walking route that enters the treated area. When there are no usual points of worker entry to the treated area, signs shall be posted in the corners of the treated area or in any other location affording maximum visibility.

(6) The signs shall:

(i) Be posted no sooner than 24 hours before the scheduled application of the pesticide.

(ii) Remain posted throughout the application and any restricted-entry interval.

(iii) Be removed within 3 days after the end of the application and any restricted-entry interval and before agricultural-worker entry is permitted, other than entry permitted by §170.112.

(7) The signs shall remain visible and legible during the time they are posted.

(8) When several contiguous areas are to be treated with pesticides on a rotating or sequential basis, the entire area may be posted. Worker entry, other than entry permitted by §170.112, is prohibited for the entire area while the signs are posted.

(d) *Oral warnings.* The agricultural employer shall provide oral warnings to workers in a manner that the worker can understand. If a worker will be on the premises during the application, the warning shall be given before the application takes place. Otherwise, the warning shall be given at the beginning of the worker's first work period during which the application is taking place or the restricted-entry interval for the pesticide is in effect. The warning shall consist of:

(1) The location and description of the treated area.

(2) The time during which entry is restricted.

(3) Instructions not to enter the treated area until the restricted-entry interval has expired.

[57 FR 38151, Aug. 21, 1992, as amended at 61 FR 33207, June 26, 1996]

§ 170.122 Providing specific information about applications.

When workers are on an agricultural establishment and, within the last 30 days, a pesticide covered by this subpart has been applied on the establishment or a restricted-entry interval has been in effect, the agricultural employer shall display, in accordance with this section, specific information about the pesticide.

(a) *Location, accessibility, and legibility.* The information shall be displayed in the location specified for the pesticide safety poster in §170.135(d) and shall be accessible and legible, as specified in §170.135 (e) and (f).

(b) *Timing.* (1) If warning signs are posted for the treated area before an application, the specific application information for that application shall be posted at the same time or earlier.

(2) The information shall be posted before the application takes place, if workers will be on the establishment during application. Otherwise, the information shall be posted at the beginning of any worker's first work period.

(3) The information shall continue to be displayed for at least 30 days after the end of the restricted-entry interval (or, if there is no restricted-entry interval, for at least 30 days after the end of the application) or at least until workers are no longer on the establishment, whichever is earlier.

(c) *Required information.* The information shall include:

- (1) The location and description of the treated area.
- (2) The product name, EPA registration number, and active ingredient(s) of the pesticide.
- (3) The time and date the pesticide is to be applied.
- (4) The restricted-entry interval for the pesticide.

§ 170.124 Notice of applications to handler employers.

Whenever handlers who are employed by a commercial pesticide handling establishment will be performing pesticide handling tasks on an agricultural establishment, the agricultural employer shall provide to the handler employer, or assure that the handler employer is aware of, the following information concerning any areas on the agricultural establishment that the handler may be in (or may walk within 1/4 mile of) and that may be treated with a pesticide or that may be under a restricted-entry interval while the handler will be on the agricultural establishment:

- (a) Specific location and description of any such areas; and
- (b) Restrictions on entering those areas.

§ 170.130 Pesticide safety training for workers.

(a) *General requirement*—(1) *Agricultural employer assurance*. The agricultural employer shall assure that each worker, required by this section to be trained, has been trained according to this section during the last 5 years, counting from the end of the month in which the training was completed.

(2) *Requirement for workers performing early-entry activities*. Before a worker enters a treated area on the agricultural establishment during a restricted-entry interval to perform early-entry activities permitted by §170.112 and contacts anything that has been treated with the pesticide to which the restricted-entry interval applies, including but not limited to, soil, water, or surfaces of plants, the agricultural employer shall assure that the worker has been trained.

(3) *Requirements for other agricultural workers*—(i) *Information before entry*. As of January 1, 1996, and except as provided in paragraph (a)(2) of this section, before a worker enters any areas on the agricultural establishment where, within the last 30 days a pesticide to which this subpart applies has been applied or the restricted-entry interval for such pesticide has been in effect, the agricultural employer shall assure that the worker has been provided the pesticide safety information specified in paragraph (c), in a manner that agricultural workers can understand, such as by providing written materials or oral communication or by other means. The agricultural employer must be able to verify compliance with this requirement.

(ii) *Training before the 6th day of entry*. Except as provided in paragraph (a)(2) of this section, before the 6th day that a worker enters any areas on the agricultural establishment where, within the last 30 days a pesticide to which this subpart applies has been applied or a restricted-entry interval for such pesticide has been in effect, the agricultural employer shall assure that the worker has been trained.

(iii) *Exceptions during interim period*. Until December 31, 1995, and except as provided by paragraph (a)(2) of this section, before the 16th day that a worker enters any areas on the agricultural establishment where, within the last 30 days a pesticide to which this subpart applies has been applied or a restricted-entry interval has been in effect, the agricultural employer shall assure that the worker has been trained. After December 31,

1995 this exception no longer applies.

(b) *Exceptions.* The following persons need not be trained under this section:

(1) A worker who is currently certified as an applicator of restricted-use pesticides under part 171 of this chapter.

(2) A worker who satisfies the training requirements of part 171 of this chapter.

(3) A worker who satisfies the handler training requirements of §170.230(c).

(4) A worker who is certified or licensed as a crop advisor by a program acknowledged as appropriate in writing by EPA or a State or Tribal lead agency for pesticide enforcement, provided that a requirement for such certification or licensing is pesticide safety training that includes all the information set out in §170.230(c)(4).

(c) *Pesticide safety information.* The pesticide safety information required by paragraph (a)(3)(i) shall be presented to workers in a manner that the workers can understand. At a minimum, the following information shall be provided:

(1) Pesticides may be on or in plants, soil, irrigation water, or drifting from nearby applications.

(2) Prevent pesticides from entering your body by:

(i) Following directions and/or signs about keeping out of treated or restricted areas.

(ii) Washing before eating, drinking, using chewing gum or tobacco, or using the toilet.

(iii) Wearing work clothing that protects the body from pesticide residues.

(iv) Washing/showering with soap and water, shampoo hair, and put on clean clothes after work.

(v) Washing work clothes separately from other clothes before wearing them again.

(vi) Washing immediately in the nearest clean water if pesticides are spilled or sprayed on the body. As soon as possible, shower, shampoo, and change into clean clothes.

(3) Further training will be provided within 5 days.

(d) *Training programs.* (1) General pesticide safety information shall be presented to workers either orally from written materials or audiovisually. The information must be presented in a manner that the workers can understand (such as through a translator) using nontechnical terms. The presenter also shall respond to workers' questions.

(2) The person who conducts the training shall meet at least one of the following criteria:

(i) Be currently certified as an applicator of restricted-use pesticides under part 171 of this chapter; or

(ii) Be currently designated as a trainer of certified applicators or pesticide handlers by a State, Federal, or Tribal agency having jurisdiction; or

(iii) Have completed a pesticide safety train-the-trainer program approved by a State, Federal, or Tribal agency having jurisdiction; or

(iv) Satisfy the training requirements in part 171 of this chapter or in §170.230(c).

(3) Any person who issues an EPA-approved Worker Protection Standard worker training certificate must assure that the worker who receives the training certificate has been trained in accordance with (c)(4) of this section.

(4) The training materials shall convey, at a minimum, the following information:

(i) Where and in what form pesticides may be encountered during work activities.

(ii) Hazards of pesticides resulting from toxicity and exposure, including acute and

chronic effects, delayed effects, and sensitization.

- (iii) Routes through which pesticides can enter the body.
- (iv) Signs and symptoms of common types of pesticide poisoning.
- (v) Emergency first aid for pesticide injuries or poisonings.
- (vi) How to obtain emergency medical care.
- (vii) Routine and emergency decontamination procedures, including emergency eyeflushing techniques.
- (viii) Hazards from chemigation and drift.
- (ix) Hazards from pesticide residues on clothing.
- (x) Warnings about taking pesticides or pesticide containers home.
- (xi) Requirements of this subpart designed to reduce the risks of illness or injury resulting from workers' occupational exposure to pesticides, including application and entry restrictions, the design of the warning sign, posting of warning signs, oral warnings, the availability of specific information about applications, and the protection against retaliatory acts.

(e) *Verification of training.* (1) Except as provided in paragraph (e)(2) of this section, if the agricultural employer assures that a worker possesses an EPA-approved Worker Protection Standard worker training certificate, then the requirements of paragraph (a) and (c) of this section will have been met.

(2) If the agricultural employer is aware or has reason to know that an EPA-approved Worker Protection Standard worker training certificate has not been issued in accordance with this section, or has not been issued to the worker bearing the certificate, or the training was completed more than 5 years before the beginning of the current month, a worker's possession of that certificate does not meet the requirements of paragraph (a) of this section.

[57 FR 38151, Aug. 21, 1992, as amended at 60 FR 21947, 21952, May 3, 1995]

§ 170.135 Posted pesticide safety information.

(a) *Requirement.* When workers are on an agricultural establishment and, within the last 30 days, a pesticide covered by this subpart has been applied on the establishment or a restricted-entry interval has been in effect, the agricultural employer shall display, in accordance with this section, pesticide safety information.

(b) *Pesticide safety poster.* A safety poster must be displayed that conveys, at a minimum, the following basic pesticide safety concepts:

(1) Help keep pesticides from entering your body. At a minimum, the following points shall be conveyed:

- (i) Avoid getting on your skin or into your body any pesticides that may be on plants and soil, in irrigation water, or drifting from nearby applications.
- (ii) Wash before eating, drinking, using chewing gum or tobacco, or using the toilet.
- (iii) Wear work clothing that protects the body from pesticide residues (long-sleeved shirts, long pants, shoes and socks, and a hat or scarf).
- (iv) Wash/shower with soap and water, shampoo hair, and put on clean clothes after work.
- (v) Wash work clothes separately from other clothes before wearing them again.
- (vi) Wash immediately in the nearest clean water if pesticides are spilled or sprayed on

the body. As soon as possible, shower, shampoo, and change into clean clothes.

(vii) Follow directions about keeping out of treated or restricted areas.

(2) There are Federal rules to protect workers and handlers, including a requirement for safety training.

(c) *Emergency medical care information.* (1) The name, address, and telephone number of the nearest emergency medical care facility shall be on the safety poster or displayed close to the safety poster.

(2) The agricultural employer shall inform workers promptly of any change to the information on emergency medical care facilities.

(d) *Location.* (1) The information shall be displayed in a central location on the farm or in the nursery or greenhouse where it can be readily seen and read by workers.

(2) The information shall be displayed in a location in or near the forest in a place where it can be readily seen and read by workers and where workers are likely to congregate or pass by, such as at a decontamination site or an equipment storage site.

(e) *Accessibility.* Workers shall be informed of the location of the information and shall be allowed access to it.

(f) *Legibility.* The information shall remain legible during the time it is posted.

§ 170.150 Decontamination.

(a)(1) *Requirement.* The agricultural employer must provide decontamination supplies for workers in accordance with this section whenever:

(i) Any worker on the agricultural establishment is performing an activity in the area where a pesticide was applied or a restricted-entry interval (REI) was in effect within the last 30 days, and;

(ii) The worker contacts anything that has been treated with the pesticide, including, but not limited to soil, water, plants, plant surfaces, and plant parts.

(2) *Exception.* The 30-day time period established in paragraph (a)(1)(i) of this section shall not apply if the only pesticides used in the treated area are products with an REI of 4 hours or less on the label (but not a product without an REI on the label). When workers are in such treated areas, the agricultural employer shall provide decontamination supplies for not less than 7 days following the expiration of any applicable REI.

(b) *General conditions.* (1) The agricultural employer shall provide workers with enough water for routine washing and emergency eyeflushing. At all times when the water is available to workers, the employer shall assure that it is of a quality and temperature that will not cause illness or injury when it contacts the skin or eyes or if it is swallowed.

(2) When water stored in a tank is to be used for mixing pesticides, it shall not be used for decontamination or eyeflushing, unless the tank is equipped with properly functioning valves or other mechanisms that prevent movement of pesticides into the tank.

(3) The agricultural employer shall provide soap and single-use towels in quantities sufficient to meet worker's needs.

(4) To provide for emergency eyeflushing, the agricultural employer shall assure that at least 1 pint of water is immediately available to each worker who is performing early-entry activities permitted by §170.112 and for which the pesticide labeling requires protective eyewear. The eyeflush water shall be carried by the early-entry worker, or shall be on the

vehicle the early-entry worker is using, or shall be otherwise immediately accessible.

(c) *Location.* (1) The decontamination supplies shall be located together and be reasonably accessible to and not more than 1/4 mile from where workers are working.

(2) For worker activities performed more than 1/4 mile from the nearest place of vehicular access:

(i) The soap, single-use towels, and water may be at the nearest place of vehicular access.

(ii) The agricultural employer may permit workers to use clean water from springs, streams, lakes, or other sources for decontamination at the remote work site, if such water is more accessible than the water located at the nearest place of vehicular access.

(3) The decontamination supplies shall not be maintained in an area being treated with pesticides.

(4) The decontamination supplies shall not be maintained in an area that is under a restricted-entry interval, unless the workers for whom the supplies are provided are performing early-entry activities permitted by §170.112 and involving contact with treated surfaces and the decontamination supplies would otherwise not be reasonably accessible to those workers.

(d) *Decontamination after early-entry activities.* At the end of any exposure period for workers engaged in early-entry activities permitted by §170.112 and involving contact with anything that has been treated with the pesticide to which the restricted-entry interval applies, including, but not limited to, soil, water, air, or surfaces of plants, the agricultural employer shall provide, at the site where the workers remove personal protective equipment, soap, clean towels, and a sufficient amount of water so that the workers may wash thoroughly.

[57 FR 38151, Aug. 21, 1992, as amended at 61 FR 33212, June 26, 1996]

§ 170.160 Emergency assistance.

If there is reason to believe that a person who is or has been employed on an agricultural establishment to perform tasks related to the production of agricultural plants has been poisoned or injured by exposure to pesticides used on the agricultural establishment, including, but not limited to, exposures from application, splash, spill, drift, or pesticide residues, the agricultural employer shall:

(a) Make available to that person prompt transportation from the agricultural establishment, including any labor camp on the agricultural establishment, to an appropriate emergency medical facility.

(b) Provide to that person or to treating medical personnel, promptly upon request, any obtainable information on:

(1) Product name, EPA registration number, and active ingredients of any product to which that person might have been exposed.

(2) Antidote, first aid, and other medical information from the product labeling.

(3) The circumstances of application or use of the pesticide on the agricultural establishment.

(4) The circumstances of exposure of that person to the pesticide.

Subpart C—Standard for Pesticide Handlers

§ 170.202 Applicability of this subpart.

Except as provided by §§170.203 and 170.204, this subpart applies when any pesticide is handled for use on an agricultural establishment.

[60 FR 21952, May 3, 1995]

§ 170.203 Exceptions.

Exceptions. This subpart does not apply when any pesticide is handled for use on an agricultural establishment in the following circumstances:

(a) For mosquito abatement, Mediterranean fruit fly eradication, or similar wide-area public pest control programs sponsored by governmental entities.

(b) On livestock or other animals, or in or about animal premises.

(c) On plants grown for other than commercial or research purposes, which may include plants in habitations, home fruit and vegetable gardens, and home greenhouses.

(d) On plants that are in ornamental gardens, parks, and public or private lawns and grounds and that are intended only for aesthetic purposes or climatic modification.

(e) In a manner not directly related to the production of agricultural plants, including, but not limited to, structural pest control, control of vegetation along rights-of-way and in other noncrop areas, and pasture and rangeland use.

(f) For control of vertebrate pests.

(g) As attractants or repellents in traps.

(h) On the harvested portions of agricultural plants or on harvested timber.

(i) For research uses of unregistered pesticides.

[57 FR 38151, Aug. 21, 1992. Redesignated at 60 FR 21952, May 3, 1995]

§ 170.204 Exemptions.

The handlers listed in this section are exempt from the specified provisions of this subpart.

(a) *Owners of agricultural establishments.* (1) The owner of an agricultural establishment is not required to provide to himself or members of his immediate family who are performing handling tasks on their own agricultural establishment the protections of:

(i) Section 170.210(b) and (c).

(ii) Section 170.222.

(iii) Section 170.230.

(iv) Section 170.232.

(v) Section 170.234.

(vi) Section 170.235.

(vii) Section 170.240(e) through (g).

(viii) Section 170.250.

(ix) Section 170.260.

(2) The owner of the agricultural establishment must provide the protections listed in paragraphs (a)(1) (i) through (ix) of this section to other handlers and other persons who are not members of his immediate family.

(b) *Crop advisors.* (1) Provided that the conditions of paragraph (b)(2) of this section are met, a person who is certified or licensed as a crop advisor by a program acknowledged as appropriate

in writing by EPA or a State or Tribal lead agency for pesticide enforcement, and persons performing crop advising tasks under such qualified crop advisor's direct supervision, are exempt from the provisions of:

- (i) Section 170.232.
- (ii) Section 170.240.
- (iii) Section 170.250.
- (iv) Section 170.260.

A person is under the direct supervision of a crop advisor when the crop advisor exerts the supervisory controls set out in paragraphs (b)(2)(iv) and (v) of this section. Direct supervision does not require that the crop advisor be physically present at all times, but the crop advisor must be readily accessible to the employees at all times.

(2) *Conditions of exemption.* (i) The certification or licensing program requires pesticide safety training that includes, at least, all the information in §170.230(c)(4).

(ii) No entry into the treated area occurs until after application ends.

(iii) Applies only when performing crop advising tasks in the treated area.

(iv) The crop advisor must make specific determinations regarding the appropriate PPE, appropriate decontamination supplies, and how to conduct the tasks safely. The crop advisor must convey this information to each person under his direct supervision in a language that the person understands.

(v) Before entering a treated area, the certified or licensed crop advisor must inform, through an established practice of communication, each person under his direct supervision of the pesticide products and active ingredient(s) applied, method of application, time of application, the restricted entry interval, which tasks to undertake, and how to contact the crop advisor.

(c) *Grace period for persons performing crop advisor tasks who are not certified or licensed.*

(1) Provided that the conditions of paragraph (c)(2) of this section are met, a person who is neither certified nor licensed as a crop advisor and any person performing crop advising tasks under his direct supervision is exempt until May 1, 1996, from the requirements of:

- (i) Section 170.230.
- (ii) Section 170.232.
- (iii) Section 170.240.
- (iv) Section 170.250.
- (v) Section 170.260.

(2) *Conditions of exemption.* (i) No entry into the treated area occurs until after application ends.

(ii) Applies only when the persons are performing crop advising tasks in the treated area.

(iii) The crop advisor must make specific determinations regarding the appropriate PPE, appropriate decontamination supplies, and how to conduct the tasks safely. The crop advisor must convey this information to each person under his direct supervision in a language that the person understands.

(iv) Before entering a treated area, the crop advisor must inform, through an established practice of communication, each person under his direct supervision of the pesticide products and active ingredient(s) applied, method of application, time of

application, the restricted entry interval, which tasks to undertake, and how to contact the crop advisor.

[60 FR 21953, May 3, 1995]

§ 170.210 Restrictions during applications.

(a) *Contact with workers and other persons.* The handler employer and the handler shall assure that no pesticide is applied so as to contact, either directly or through drift, any worker or other person, other than an appropriately trained and equipped handler.

(b) *Handlers handling highly toxic pesticides.* The handler employer shall assure that any handler who is performing any handling activity with a product that has the skull and crossbones symbol on the front panel of the label is monitored visually or by voice communication at least every 2 hours.

(c) *Fumigant applications in greenhouses.* The handler employer shall assure:

(1) That any handler who handles a fumigant in a greenhouse, including a handler who enters the greenhouse before the acceptable inhalation exposure level or ventilation criteria have been met to monitor air levels or to initiate ventilation, maintains continuous visual or voice contact with another handler.

(2) That the other handler has immediate access to the personal protective equipment required by the fumigant labeling for handlers in the event entry into the fumigated greenhouse becomes necessary for rescue.

§ 170.222 Providing specific information about applications.

When handlers (except those employed by a commercial pesticide handling establishment) are on an agricultural establishment and, within the last 30 days, a pesticide covered by this subpart has been applied on the establishment or a restricted-entry interval has been in effect, the handler employer shall display, in accordance with this section, specific information about the pesticide.

(a) *Location, accessibility, and legibility.* The information shall be displayed in the same location specified for the pesticide safety poster in §170.235(d) of this part and shall be accessible and legible, as specified in §170.235(e) and (f) of this part.

(b) *Timing.* (1) If warning signs are posted for the treated area before an application, the specific application information for that application shall be posted at the same time or earlier.

(2) The information shall be posted before the application takes place, if handlers (except those employed by a commercial pesticide handling establishment) will be on the establishment during application. Otherwise, the information shall be posted at the beginning of any such handler's first work period.

(3) The information shall continue to be displayed for at least 30 days after the end of the restricted-entry interval (or, if there is no restricted-entry interval, for at least 30 days after the end of the application) or at least until the handlers are no longer on the establishment, whichever is earlier.

(c) *Required information.* The information shall include:

(1) The location and description of the treated area.

(2) The product name, EPA registration number, and active ingredient(s) of the pesticide.

(3) The time and date the pesticide is to be applied.

(4) The restricted-entry interval for the pesticide.

§ 170.224 Notice of applications to agricultural employers.

Before the application of any pesticide on or in an agricultural establishment, the handler employer shall provide the following information to any agricultural employer for the establishment or shall assure that any agricultural employer is aware of:

- (a) Specific location and description of the treated area.
- (b) Time and date of application.
- (c) Product name, EPA registration number, and active ingredient(s).
- (d) Restricted-entry interval.
- (e) Whether posting and oral notification are required.
- (f) Any other product-specific requirements on the product labeling concerning protection of workers or other persons during or after application.

§ 170.230 Pesticide safety training for handlers.

(a) *Requirement.* Before any handler performs any handling task, the handler employer shall assure that the handler has been trained in accordance with this section during the last 5 years, counting from the end of the month in which the training was completed.

(b) *Exceptions.* The following persons need not be trained under this section:

(1) A handler who is currently certified as an applicator of restricted-use pesticides under part 171 of this chapter.

(2) A handler who satisfies the training requirements of part 171 of this chapter.

(3) A handler who is certified or licensed as a crop advisor by a program acknowledged as appropriate in writing by EPA or a State or Tribal lead agency for pesticide enforcement, provided that a requirement for such certification or licensing is pesticide safety training that includes all the information set out in §170.230(c)(4).

(c) *Training programs.* (1) General pesticide safety information shall be presented to handlers either orally from written materials or audiovisually. The information must be presented in a manner that the handlers can understand (such as through a translator). The presenter also shall respond to handlers' questions.

(2) The person who conducts the training shall meet at least one of the following criteria:

(i) Be currently certified as an applicator of restricted-use pesticides under part 171 of this chapter; or

(ii) Be currently designated as a trainer of certified applicators or pesticide handlers by a State, Federal, or Tribal agency having jurisdiction; or

(iii) Have completed a pesticide safety train-the-trainer program approved by a State, Federal, or Tribal agency having jurisdiction.

(3) Any person who issues an EPA-approved Worker Protection Standard handler training certificate must assure that the handler who receives the training certificate has been trained in accordance with paragraph (c)(4) of this section.

(4) The pesticide safety training materials must convey, at a minimum, the following information:

(i) Format and meaning of information contained on pesticide labels and in labeling, including safety information such as precautionary statements about human health hazards.

(ii) Hazards of pesticides resulting from toxicity and exposure, including acute and chronic effects, delayed effects, and sensitization.

- (iii) Routes by which pesticides can enter the body.
- (iv) Signs and symptoms of common types of pesticide poisoning.
- (v) Emergency first aid for pesticide injuries or poisonings.
- (vi) How to obtain emergency medical care.
- (vii) Routine and emergency decontamination procedures.
- (viii) Need for and appropriate use of personal protective equipment.
- (ix) Prevention, recognition, and first aid treatment of heat-related illness.
- (x) Safety requirements for handling, transporting, storing, and disposing of pesticides, including general procedures for spill cleanup.
- (xi) Environmental concerns such as drift, runoff, and wildlife hazards.
- (xii) Warnings about taking pesticides or pesticide containers home.
- (xiii) Requirements of this subpart that must be followed by handler employers for the protection of handlers and other persons, including the prohibition against applying pesticides in a manner that will cause contact with workers or other persons, the requirement to use personal protective equipment, the provisions for training and decontamination, and the protection against retaliatory acts.

(d) *Verification of training.* (1) Except as provided in paragraph (d)(2) of this section, if the handler employer assures that a handler possesses an EPA-approved Worker Protection Standard handler training certificate, then the requirements of paragraph (a) of this section will have been met.

(2) If the handler employer is aware or has reason to know that an EPA-approved Worker Protection Standard handler training certificate has not been issued in accordance with this section, or has not been issued to the handler bearing the certificate, or the handler training was completed more than 5 years before the beginning of the current month, a handler's possession of that certificate does not meet the requirements of paragraph (a) of this section. [57 FR 38151, Aug. 21, 1992, as amended at 60 FR 21953, May 3, 1995]

§ 170.232 Knowledge of labeling and site-specific information.

(a) *Knowledge of labeling information.* (1) The handler employer shall assure that before the handler performs any handling activity, the handler either has read the product labeling or has been informed in a manner the handler can understand of all labeling requirements related to safe use of the pesticide, such as signal words, human hazard precautions, personal protective equipment requirements, first aid instructions, environmental precautions, and any additional precautions pertaining to the handling activity to be performed.

(2) The handler employer shall assure that the handler has access to the product labeling information during handling activities.

(b) *Knowledge of site-specific information.* Whenever a handler who is employed by a commercial pesticide handling establishment will be performing pesticide handling tasks on an agricultural establishment, the handler employer shall assure that the handler is aware of the following information concerning any areas on the agricultural establishment that the handler may be in (or may walk within 1/4 mile of) and that may be treated with a pesticide or that may be under a restricted-entry interval while the handler will be on the agricultural establishment:

- (1) Specific location and description of any such areas; and
- (2) Restrictions on entering those areas.

§ 170.234 Safe operation of equipment.

(a) The handler employer shall assure that before the handler uses any equipment for mixing, loading, transferring, or applying pesticides, the handler is instructed in the safe operation of such equipment, including, when relevant, chemigation safety requirements and drift avoidance.

(b) The handler employer shall assure that, before each day of use, equipment used for mixing, loading, transferring, or applying pesticides is inspected for leaks, clogging, and worn or damaged parts, and any damaged equipment is repaired or is replaced.

(c) Before allowing any person to repair, clean, or adjust equipment that has been used to mix, load, transfer, or apply pesticides, the handler employer shall assure that pesticide residues have been removed from the equipment, unless the person doing the cleaning, repairing, or adjusting is a handler employed by the agricultural or commercial pesticide handling establishment. If pesticide residue removal is not feasible, the handler employer shall assure that the person who repairs, cleans, or adjusts such equipment is informed:

- (1) That such equipment may be contaminated with pesticides.
- (2) Of the potentially harmful effects of exposure to pesticides.
- (3) Of the correct way to handle such equipment.

§ 170.235 Posted pesticide safety information.

(a) *Requirement.* When handlers (except those employed by a commercial pesticide handling establishment) are on an agricultural establishment and, within the last 30 days, a pesticide covered by this subpart has been applied on the establishment or a restricted-entry interval has been in effect, the handler employer shall display, in accordance with this section, pesticide safety information.

(b) *Pesticide safety poster.* A safety poster must be displayed that conveys, at a minimum, the following basic pesticide safety concepts:

(1) Help keep pesticides from entering your body. At a minimum, the following points shall be conveyed:

(i) Avoid getting on your skin or into your body any pesticides that may be on plants and soil, in irrigation water, or drifting from nearby applications.

(ii) Wash before eating, drinking, using chewing gum or tobacco, or using the toilet.

(iii) Wear work clothing that protects the body from pesticide residues (long-sleeved shirts, long pants, shoes and socks, and a hat or scarf).

(iv) Wash/shower with soap and water, shampoo hair, and put on clean clothes after work.

(v) Wash work clothes separately from other clothes before wearing them again.

(vi) Wash immediately in the nearest clean water if pesticides are spilled or sprayed on the body. As soon as possible, shower, shampoo, and change into clean clothes.

(vii) Follow directions about keeping out of treated or restricted areas.

(2) There are Federal rules to protect workers and handlers including a requirement for safety training.

(c) *Emergency medical care information.* (1) The name, address, and telephone number of the nearest emergency medical care facility shall be on the safety poster or displayed close to the safety poster.

(2) The handler employer shall inform handlers promptly of any change to the information

on emergency medical care facilities.

(d) *Location*. (1) The information shall be displayed in a central location on the farm or in the nursery or greenhouse where it can be readily seen and read by handlers.

(2) The information shall be displayed in a location in or near the forest in a place where it can be readily seen and read by handlers and where handlers are likely to congregate or pass by, such as at a decontamination site or an equipment storage site.

(e) *Accessibility*. Handlers shall be informed of the location of the information and shall be allowed access to it.

(f) *Legibility*. The information shall remain legible during the time it is posted.

§ 170.240 Personal protective equipment.

(a) *Requirement*. Any person who performs tasks as a pesticide handler shall use the clothing and personal protective equipment specified on the labeling for use of the product.

(b) *Definition*. (1) Personal protective equipment (PPE) means devices and apparel that are worn to protect the body from contact with pesticides or pesticide residues, including, but not limited to, coveralls, chemical-resistant suits, chemical-resistant gloves, chemical-resistant footwear, respiratory protection devices, chemical-resistant aprons, chemical-resistant headgear, and protective eyewear.

(2) Long-sleeved shirts, short-sleeved shirts, long pants, short pants, shoes, socks, and other items of work clothing are not considered personal protective equipment for the purposes of this section and are not subject to the requirements of this section, although pesticide labeling may require that such work clothing be worn during some activities.

(c) *Provision*. When personal protective equipment is specified by the labeling of any pesticide for any handling activity, the handler employer shall provide the appropriate personal protective equipment in clean and operating condition to the handler.

(1) When “chemical-resistant” personal protective equipment is specified by the product labeling, it shall be made of material that allows no measurable movement of the pesticide being used through the material during use.

(2) When “waterproof” personal protective equipment is specified by the product labeling, it shall be made of material that allows no measurable movement of water or aqueous solutions through the material during use.

(3) When a “chemical-resistant suit” is specified by the product labeling, it shall be a loose-fitting, one- or two-piece chemical-resistant garment that covers, at a minimum, the entire body except head, hands, and feet.

(4) When “coveralls” are specified by the product labeling, they shall be a loose-fitting, one- or two-piece garment, such as a cotton or cotton and polyester coverall, that covers, at a minimum, the entire body except head, hands, and feet. The pesticide product labeling may specify that the coveralls be worn over another layer of clothing.

(5)(i) Gloves shall be of the type specified on the pesticide product labeling. Gloves made of leather, cotton, or other absorbent materials may not be worn while mixing, loading, applying, or otherwise handling pesticides, unless gloves made of these materials are listed as acceptable for such use on the product labeling.

(ii) Separable glove liners may be worn beneath chemical-resistant gloves, unless the pesticide product labeling specifically prohibits their use. Separable glove liners are

defined as separate glove-like hand coverings, made of lightweight material, with or without fingers. Work gloves made from lightweight cotton or poly-type material are considered to be glove liners if worn beneath chemical-resistant gloves. Separable glove liners may not extend outside the chemical-resistant gloves under which they are worn. Chemical-resistant gloves with non-separable absorbent lining materials are prohibited.

(iii) If used, separable glove liners must be discarded immediately after a total of no more than 10 hours of use or within 24 hours of when first put on, whichever comes first. The liners must be replaced immediately if directly contacted by pesticide. Used glove liners shall not be reused. Contaminated liners must be disposed of in accordance with any Federal, State, or local regulations.

(6) When “chemical-resistant footwear” is specified by the product labeling, one of the following types of footwear must be worn:

- (i) Chemical-resistant shoes.
- (ii) Chemical-resistant boots.
- (iii) Chemical-resistant shoe coverings worn over shoes or boots.

(7) When “protective eyewear” is specified by the product labeling, one of the following types of eyewear must be worn:

- (i) Goggles.
- (ii) Face shield.
- (iii) Safety glasses with front, brow, and temple protection.
- (iv) Full-face respirator.

(8) When a “chemical-resistant apron” is specified by the product labeling, an apron that covers the front of the body from mid-chest to the knees shall be worn.

(9) When a respirator is specified by the product labeling, it shall be appropriate for the pesticide product used and for the activity to be performed. The handler employer shall assure that the respirator fits correctly.

(10) When “chemical-resistant headgear” is specified by the product labeling, it shall be either a chemical resistant hood or a chemical-resistant hat with a wide brim.

(d) *Exceptions to personal protective equipment specified on product labeling*—(1) *Body protection.* (i) A chemical-resistant suit may be substituted for “coveralls,” and any requirement for an additional layer of clothing beneath is waived.

(ii) A chemical-resistant suit may be substituted for “coveralls” and a chemical-resistant apron.

(2) *Boots.* If chemical-resistant footwear with sufficient durability and a tread appropriate for wear in rough terrain is not obtainable, then leather boots may be worn in such terrain.

(3) *Gloves.* If chemical-resistant gloves with sufficient durability and suppleness are not obtainable, then during handling activities with roses or other plants with sharp thorns, leather gloves may be worn over chemical-resistant glove liners. However, once leather gloves are worn for this use, thereafter they shall be worn only with chemical-resistant liners and they shall not be worn for any other use.

(4) *Closed systems.* If handling tasks are performed using properly functioning systems that enclose the pesticide to prevent it from contacting handlers or other persons, and if such systems are used and are maintained in accordance with that manufacturer's written operating instructions, exceptions to labeling-specified personal protective equipment for the handling

activity are permitted as provided in paragraphs (d)(4)(i) and (ii) of this section.

(i) Persons using a closed system to mix or load pesticides with a signal word of DANGER or WARNING may substitute a long-sleeved shirt, long pants, shoes, socks, chemical-resistant apron, and any protective gloves specified on the labeling for handlers for the labeling-specified personal protective equipment.

(ii) Persons using a closed system to mix or load pesticides other than those in paragraph (d)(4)(i) of this section or to perform other handling tasks may substitute a long-sleeved shirt, long pants, shoes, and socks for the labeling-specified personal protective equipment.

(iii) Persons using a closed system that operates under pressure shall wear protective eyewear.

(iv) Persons using a closed system shall have all labeling-specified personal protective equipment immediately available for use in an emergency.

(5) *Enclosed cabs.* If handling tasks are performed from inside a cab that has a nonporous barrier which totally surrounds the occupants of the cab and prevents contact with pesticides outside of the cab, exceptions to personal protective equipment specified on the product labeling for that handling activity are permitted as provided in paragraphs (d)(5) (i) through (iv) of this section.

(i) Persons occupying an enclosed cab may substitute a long-sleeved shirt, long pants, shoes, and socks for the labeling-specified personal protective equipment. If a respiratory protection device is specified on the pesticide product labeling for the handling activity, it must be worn.

(ii) Persons occupying an enclosed cab that has a properly functioning ventilation system which is used and maintained in accordance with the manufacturer's written operating instructions and which is declared in writing by the manufacturer or by a governmental agency to provide respiratory protection equivalent to or greater than a dust/mist filtering respirator may substitute a long-sleeved shirt, long pants, shoes, and socks for the labeling-specified personal protective equipment. If a respiratory protection device other than a dust/mist-filtering respirator is specified on the pesticide product labeling, it must be worn.

(iii) Persons occupying an enclosed cab that has a properly functioning ventilation system which is used and maintained in accordance with the manufacturer's written operating instructions and which is declared in writing by the manufacturer or by a governmental agency to provide respiratory protection equivalent to or greater than the vapor- or gas-removing respirator specified on pesticide product labeling may substitute a long-sleeved shirt, long pants, shoes, and socks for the labeling-specified personal protective equipment. If an air-supplying respirator or a self-contained breathing apparatus (SCBA) is specified on the pesticide product labeling, it must be worn.

(iv) Persons occupying an enclosed cab shall have all labeling-specified personal protective equipment immediately available and stored in a chemical-resistant container, such as a plastic bag. They shall wear such personal protective equipment if it is necessary to exit the cab and contact pesticide-treated surfaces in the treated area. Once personal protective equipment is worn in the treated area, it must be removed before reentering the cab.

(6) *Aerial applications*—(i) *Use of gloves*. The wearing of chemical-resistant gloves when entering or leaving an aircraft used to apply pesticides is optional, unless such gloves are required on the pesticide product labeling. If gloves are brought into the cockpit of an aircraft that has been used to apply pesticides, the gloves shall be kept in an enclosed container to prevent contamination of the inside of the cockpit.

(ii) *Open cockpit*. Persons occupying an open cockpit shall use the personal protective equipment specified in the product labeling for use during application, except that chemical-resistant footwear need not be worn. A helmet may be substituted for chemical-resistant headgear. A visor may be substituted for protective eyewear.

(iii) *Enclosed cockpit*. Persons occupying an enclosed cockpit may substitute a long-sleeved shirt, long pants, shoes, and socks for labeling-specified personal protective equipment.

(7) *Crop advisors*. Crop advisors entering treated areas while a restricted-entry interval is in effect may wear the personal protective equipment specified on the pesticide labeling for early-entry activities instead of the personal protective equipment specified on the pesticide labeling for handling activities, provided:

(i) Application has been completed for at least 4 hours.

(ii) Any inhalation exposure level listed in the labeling has been reached or any ventilation criteria established by §170.110(c)(3) or in the labeling have been met.

(e) *Use of personal protective equipment*. (1) The handler employer shall assure that personal protective equipment is used correctly for its intended purpose and is used according to the manufacturer's instructions.

(2) The handler employer shall assure that, before each day of use, all personal protective equipment is inspected for leaks, holes, tears, or worn places, and any damaged equipment is repaired or discarded.

(f) *Cleaning and maintenance*. (1) The handler employer shall assure that all personal protective equipment is cleaned according to the manufacturer's instructions or pesticide product labeling instructions before each day of reuse. In the absence of any such instructions, it shall be washed thoroughly in detergent and hot water.

(2) If any personal protective equipment cannot be cleaned properly, the handler employer shall dispose of the personal protective equipment in accordance with any applicable Federal, State, and local regulations. Coveralls or other absorbent materials that have been drenched or heavily contaminated with an undiluted pesticide that has the signal word DANGER or WARNING on the label shall be not be reused.

(3) The handler employer shall assure that contaminated personal protective equipment is kept separately and washed separately from any other clothing or laundry.

(4) The handler employer shall assure that all clean personal protective equipment shall be either dried thoroughly before being stored or shall be put in a well ventilated place to dry.

(5) The handler employer shall assure that all personal protective equipment is stored separately from personal clothing and apart from pesticide-contaminated areas.

(6) The handler employer shall assure that when dust/mist filtering respirators are used, the filters shall be replaced:

(i) When breathing resistance becomes excessive.

(ii) When the filter element has physical damage or tears.

(iii) According to manufacturer's recommendations or pesticide product labeling, whichever is more frequent.

(iv) In the absence of any other instructions or indications of service life, at the end of each day's work period.

(7) The handler employer shall assure that when gas- or vapor-removing respirators are used, the gas- or vapor-removing canisters or cartridges shall be replaced:

(i) At the first indication of odor, taste, or irritation.

(ii) According to manufacturer's recommendations or pesticide product labeling, whichever is more frequent.

(iii) In the absence of any other instructions or indications of service life, at the end of each day's work period.

(8) The handler employer shall inform any person who cleans or launders personal protective equipment:

(i) That such equipment may be contaminated with pesticides.

(ii) Of the potentially harmful effects of exposure to pesticides.

(iii) Of the correct way(s) to clean personal protective equipment and to protect themselves when handling such equipment.

(9) The handler employer shall assure that handlers have a clean place(s) away from pesticide storage and pesticide use areas where they may:

(i) Store personal clothing not in use.

(ii) Put on personal protective equipment at the start of any exposure period.

(iii) Remove personal protective equipment at the end of any exposure period.

(10) The handler employer shall not allow or direct any handler to wear home or to take home personal protective equipment contaminated with pesticides.

(g) *Heat-related illness.* When the use of personal protective equipment is specified by the labeling of any pesticide for the handling activity, the handler employer shall assure that no handler is allowed or directed to perform the handling activity unless appropriate measures are taken, if necessary, to prevent heat-related illness.

[57 FR 38151, Aug. 21, 1992, as amended at 69 FR 53346, Sept. 1, 2004]

§ 170.250 Decontamination.

(a) *Requirement.* During any handling activity, the handler employer shall provide for handlers, in accordance with this section, decontamination supplies for washing off pesticides and pesticide residues.

(b) *General conditions.* (1) The handler employer shall provide handlers with enough water for routine washing, for emergency eyeflushing, and for washing the entire body in case of an emergency. At all times when the water is available to handlers, the handler employer shall assure that it is of a quality and temperature that will not cause illness or injury when it contacts the skin or eyes or if it is swallowed.

(2) When water stored in a tank is to be used for mixing pesticides, it shall not be used for decontamination or eye flushing, unless the tank is equipped with properly functioning valves or other mechanisms that prevent movement of pesticides into the tank.

(3) The handler employer shall provide soap and single-use towels in quantities sufficient to meet handlers' needs.

(4) The handler employer shall provide one clean change of clothing, such as coveralls, for use in an emergency.

(c) *Location.* The decontamination supplies shall be located together and be reasonably accessible to and not more than 1/4 mile from each handler during the handling activity.

(1) Exception for mixing sites. For mixing activities, decontamination supplies shall be at the mixing site.

(2) Exception for pilots. Decontamination supplies for a pilot who is applying pesticides aerially shall be in the airplane or at the aircraft loading site.

(3) Exception for handling pesticides in remote areas. When handling activities are performed more than 1/4 mile from the nearest place of vehicular access:

(i) The soap, single-use towels, clean change of clothing, and water may be at the nearest place of vehicular access.

(ii) The handler employer may permit handlers to use clean water from springs, streams, lakes, or other sources for decontamination at the remote work site, if such water is more accessible than the water located at the nearest place of vehicular access.

(4) Decontamination supplies in treated areas. The decontamination supplies shall not be in an area being treated with pesticides or in an area under a restricted-entry interval, unless:

(i) The decontamination supplies are in the area where the handler is performing handling activities;

(ii) The soap, single-use towels, and clean change of clothing are in enclosed containers; and

(iii) The water is running tap water or is enclosed in a container.

(d) *Emergency eyeflushing.* To provide for emergency eyeflushing, the handler employer shall assure that at least 1 pint of water is immediately available to each handler who is performing tasks for which the pesticide labeling requires protective eyewear. The eyeflush water shall be carried by the handler, or shall be on the vehicle or aircraft the handler is using, or shall be otherwise immediately accessible.

(e) *Decontamination after handling activities.* At the end of any exposure period, the handler employer shall provide at the site where handlers remove personal protective equipment, soap, clean towels, and a sufficient amount of water so that the handlers may wash thoroughly.

[57 FR 38151, Aug. 21, 1992, as amended at 61 FR 33213, June 26, 1996]

§ 170.260 Emergency assistance.

If there is reason to believe that a person who is or has been employed by an agricultural establishment or commercial pesticide handling establishment to perform pesticide handling tasks has been poisoned or injured by exposure to pesticides as a result of that employment, including, but not limited to, exposures from handling tasks or from application, splash, spill, drift, or pesticide residues, the handler employer shall:

(a) Make available to that person prompt transportation from the place of employment or the handling site to an appropriate emergency medical facility.

(b) Provide to that person or to treating medical personnel, promptly upon request, any obtainable information on:

(1) Product name, EPA registration number, and active ingredients of any product to which that person might have been exposed.

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- (2) Antidote, first aid, and other medical information from the product labeling.
- (3) The circumstances of handling of the pesticide.
- (4) The circumstances of exposure of that person to the pesticide.

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ATTACHMENT C

Consultation Contacts

Attachment C

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ATTACHMENT D
Display Related to OMB Control #2070-0148
Listings of Related Regulations in 40 CFR 9.1

Attachment D

**Display Related to OMB Control #2070-0148
Listings of Related Regulations in 40 CFR 9.1**

As of May 10, 1993, the OMB approval numbers for EPA regulations in Chapter I of Title 40 of the Code of Federal Regulations (CFR) appear in a listing in 40 CFR 9.1 (58 FR 27472). This listing fulfills the display requirements in section 3507(f) of the Paperwork Reduction Act (PRA) for EPA regulations. The listing at 40 CFR 9.1 displays this OMB Control number for the following regulations:

Program Title	40 CFR citation
Worker Protection Standards for Agricultural Pesticides	170